DOCUMENT RESUME

ED 190 335 RC 012 189

TITLE American Indian Policy Review Commission. Final Report, Appendixes, and Index Submitted to Congress May 17, 1977. Volume Two of Two Volumes.

INSTITUTION Congress of the U.S. Washington, D.C. American Indian Policy Review Commission.

PUB DATE 77

NOTE 915p.: Paper copy not available due to small print size. For related documents, see RC 012 154-159 and ED 164 229.

EDRS PRICE MF06 Plus Postage. PC Not Available from EDRS.

DESCRIPTORS Agency Role; American Indian Education; American Indian Reservations; *American Indians; Community Services; Consultants; Economic Development; Educational Legislation; *Federal Indian Relationship; Federal Legislation; Federal Programs; *Governance; Government Role; Nonreservation American Indians; *Public Policy; *Self Determination; Treaties; Tribal Sovereignty; Tribes; *Trust Responsibility (Government)

IDENTIFIERS *American Indian Policy Review Commission; American Indian Task Forces; Tribal Government

ABSTRACT

Summarizing the most comprehensive review of Indian policies and programs in the history of the United States, the final report of the American Indian Policy Review Commission (AIPRC) is a product of Indian effort and participation. Volume Two contains five appendices and an index. Appendix A includes information on: the legal mandate (Public Law 93-580); organization, objectives, functions, and operations of the Commission; administration of funds; organization and writing of the final report; also includes brief profiles of Commission and Task Force members. Appendix B contains a bibliography arranged in 49 alphabetical sections plus separate sections for special materials, bibliographic services, federal court cases, law review articles, and General Accounting Office reports. Appendix C includes the format for the proposed annual reports on Indian affairs while Appendix D is comprised of charts on federal programs serving Indians. In the final section, Appendix E, are comments received on the tentative final draft report of the Commission from Indian tribes and organizations, state governors and agencies, federal officials, and interested non-Indian persons. Most of the issues raised by the comments, suggestions, and criticisms are incorporated in Volume One of this report. (AM)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

[COMMITTEE PRINT]

AMERICAN INDIAN POLICY REVIEW COMMISSION

FINAL REPORT APPENDIXES AND INDEX

SUBMITTED TO CONGRESS
MAY 17, 1977

VOLUME TWO OF TWO VOLUMES

ED 190335

U.S. DEPARTMENT OF HEALTH
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

ERIC/CRESS
MAY 1980
RECEIVED

RC 012189

Printed for the Use of the
American Indian Policy Review Commission

[COMMITTEE PRINT]

AMERICAN INDIAN POLICY REVIEW COMMISSION

FINAL REPORT APPENDIXES AND INDEX

SUBMITTED TO CONGRESS
MAY 17, 1977

VOLUME TWO OF TWO VOLUMES

Printed for the Use of the
American Indian Policy Review Commission

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1977

19-440 O

For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

MAY 27 1980

000 3

AMERICAN INDIAN POLICY REVIEW COMMISSION

Senator JAMES ABOUREZK, South Dakota, *Chairman*
Congressman LLOYD MEEDS, Washington, *Vice Chairman*

Senator LEE METCALF, Montana
Senator MARK HATFIELD, Oregon
Congressman SIDNEY R. YATES, Illinois
Congressman SAM STEIGER, Arizona [1]
Congressman DON YOUNG, Alaska [2]

JOHN BORBRIDGE, Tlingit-Haida
LOUIS R. BRUCE, Mohawk-Sioux
ADA DEER, Menominee
ADOLPH DIAL, Lumbee
JAKE WHITECROW, Quapaw-Seneca-Cayuga

HERBERT L. STEVENS, Oneida, *Executive Director*
KIRKE KICKINGBIRD, Kiowa, *General Counsel*
MAX I. RICHTMAN, *Professional Staff Member*

---

[1] Served in the 94th Congress.
[2] Replaced Congressman Steiger on the Commission.

DEC 2 1980 YAM 4

EXECUTIVE STAFF

Director

ERNEST L. STEVENS, Oneida

General Counsel

KIRKE K. KICKINGBIRD, Kiowa

Professional Staff Member

MAX I. RICHTMAN

Clerical Assistants

ERNESTINE DUCHENEAUX, Salish and Kootenai
ROSEMARIE CORNELIUS, Sioux-Oneida
WINONA JAMIESON, Seneca

Special Assistant to the Commission

A. T. ANDERSON, Mohawk-Tuscarora-Cayuga

Director of Research

GILBERT HALL

PROFESSIONAL STAFF

SUZANNE ANN
PAUL ALEXANDER, *Special Counsel*
JENICE BIGBEE, Comanche
DENNIS CARROLL
ERNEST DOWNS
NANCY EVANS
EDWARD FAGEN
THOMAS FASSETT, Seneca
KARL A. FUNKE, Keweenan Bay, Chippewa
ELLA MAE HORSE, Cherokee
CAROL KIRK, Navajo
JOHN KOUGH
THOMAS MCGRADY
JANA MCKEAG, Cherokee
KYLE PATTERSON, Tuscarora
MARGARET PENA
CHARLES PRONE, Wiyot
MICHAEL POOLAW, Kiowa
CATHERINE ROMANO
HARRY ROSS
LAUREL BEEDON-RULE
RICHARD SHIPMAN
SARAH SNEED, Cherokee
EILEEN STILLWAGGON
TONY STRONG, Tlingit-Klukwan
JOHN SYKES
PETER TAYLOR, *Special Counsel*
KATHRYN HARRIS TIJERINA, Comanche
GRACE THORPE, Sac and Fox
DONALD WHARTON, *Special Counsel*
JULIA ZAFREN

EDITORIAL ASSISTANTS

PAUL ALEXANDER
GILBERT HALL
ERNEST (CHUCK) DOWNS
D'ARCY MCNICKLE, Salish-Kootenai
PETER TAYLOR
CHARLES WILKINSON

005 5

TASK FORCE MEMBERS

Hank Adams, Assiniboine-Sioux
Wilbur Atcitty, Navajo
Earl Barlow, Blackfeet
Robert Bojorcas, Klamath
Sherwin Broadhead
Matthew Calac, Rincon
John Echohawk, Pawnee
Alfred Elgin, California Pomo
Jerry Flute, Sisseton-Wahpeton
Raymond Goetting, Caddo
George Hawkins, Southern Cheyenne
Jo Jo Hunt, Lumbee
Yvonne Knight, Ponca
Peter MacDonald, Navajo
Phillip Martin, Mississippi Choctaw
Leslie McGarvey, Aleut
Lorraine Miniaszek, Colville
Edward Mouss, Creek-Cherokee
Douglas Nash, Nez Perce
Alan Parker, Chippewa-Cree
Browning, Pipestem, Otoe-Missouri-Osage
Luana Reyes, Colville
Dr. Everett Rhoades, Kiowa
William Roy Rhodes, Pima
Helen Scheirbeck, Lumbee
Kenneth Smith, Wasco
Reuben Snake, Winnebago
John Stevens, Passamaquoddy
Peter Taylor
Gail Thorpe, Cherokee-Creek
Mel Tonasket, Colville

TASK FORCE SPECIALISTS

Paul Alexander
James Bluestone, Hidatsa
Allan Cayous, Apache-Calvilla
Michael Cox, Creek
Bruce Davies, Oglala Sioux
Maria Facchina
Karl Funke, Keweenaw Bay, Chippewa
Amos Hopkins, Kiowa
Stephen LaBouef, Blackfeet
Paul Littlechief, Kiowa-Comanche
Roberta Minnis, Colville
Kathy McKee, Missouri Cherokee
Lorraine Ruffing
Rudy Ryser, Cowlits
Sheri Scott
George Tomer, Penobscot-Maliseet
Donald Wharton
Patricia Zell, Navajo-Arapaho

CLERICAL AND SECRETARIAL

Elva Arquero, Cochiti Pueblo
Linda Bethea
Gail Bradford
Alice Clark
Marilyn Dufrane, Mohawk
Lisa Elgin, California Pomo
Doris Gadson
Cynthia Gellner
Maxine Hill, Onondaga
Janet Hopkins
Darcy Johnson
Dianne Johnson
Cheryl Lewis
Ernestine Lewis
Gail McDonald, Mohawk
Barbara Morgan
Barbara W. Nicholson, Colville
Dawn Oakes, Mohawk
Deborah Pope
Pat Porter
Colleen Rainey
Carole Roop
Emmeline Shipman
Cynthia Suver
Regina Tsosie, Navajo
Barbara Thomas
Toni Villagecenter, Sioux
Cheryl Wheeler
Annette Young, Navajo

CONTENTS

Appendixes	Page
A. How the Commission did its work?	1
B. Bibliography of materials used by the Commission	37
C. Format for proposed annual report on Indian affairs	159
D. Federal programs serving Indians	171
E. Comments received on the tentative final draft report	193
Index	
Index	895

(1) 7

APPENDIX A

HOW THE COMMISSION DID ITS WORK

HOW THE COMMISSION DID ITS WORK

I. INTRODUCTION AND MISSION SUMMARY

Throughout the history of Federal/Indian relations, there has never been a comprehensive or consistent approach by the Congress and the Executive that dealt effectively with Indian problems and, at the same time, sufficiently fulfilled Indian needs. Inconsistent Indian policy has led directly to a situation of deep despair and frustration among Indian people documented by countless alarming statistics reflecting deplorable living conditions of Indian people. This frustration has been physically manifested in events such as the occupation of the Bureau of Indian Affairs headquarters and the modern siege at Wounded Knee in 1973.

On July 16, 1973, Senator James Abourezk (Democrat-South Dakota) introduced Resolution 133 to establish the first Indian staffed congressional Commission to review American Indian policy. Resolution 133 was referred to the Committee on Interior and Insular Affairs, and after brief hearings on July 19 and 20, 1973, and on December 5, 1973, it was considered and passed by the Senate.

May 13, 1974, Congressman Lloyd Meeds (Democrat-Washington) introduced an identical resolution, House Joint Resolution 881, in the House of Representatives. Hearings on the resolution were held before the House Subcommittee on Indian Affairs, and was passed on November 19, 1974, along with an amendment providing for the creation of investigating task forces responsible to the Commission. On December 16, the Senate concurred on the House amendment and on January 2, 1975, the resolution became Public Law 93–580, creating the American Indian Policy Review Commission. Additional amendments were passed entitling the Commission to franking privileges and to accept volunteer services from both the private and public sectors.

The American Indian Policy Review Commission, was mandated to:

> Conduct a comprehensive review of the historical and legal developments underlying the Indian's unique relationship with the Federal Government in order to determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indians.

This study was to be conducted by an 11-member Commission composed of three Senators, three Representatives, and five Indian members selected by the congressional representatives.

The actual investigations were conducted by 11 task forces working within legislative, defined subject areas. Two task forces were added later by Commission action. The task forces were each composed of three members selected from among the leading authorities in their respective fields of expertise in Indian affairs.

In the development of their reports, task forces utilized research, reports, studies, questionnaires, hearings, and site visits. This process involved a continued emphasis on direct consultation. The recommendation of each task force was structured to comply with the mandates of the legislation.

p. 2 - blank

00 9

Overall, the task force reports have provided: A study and analysis of the legal relationship of Indians to the Federal Government; a comprehensive review of existing Federal programs for Indians and projections of future needs; an examination of Federal criteria for granting recognition; and a study of tribal governments, including recommendations for strengthening governments at both the tribal and national levels. Other substantive conclusions were arrived at in the course of their investigation. Each final investigative task force report was due to the Commission within 1 year of the task force's day of appointment. The 11 final task force reports were completed by September 1976.

The development of the final report which has provided the basis for legislative proposals and administrative practices designed to meet the needs of Indian people, has also involved the creation of supplemental reports which reinforce the conclusions reached in the final report. In addition to the 11 task forces reports, the Commission has compiled special reports on pressing issues in Indian affairs written by authorities in these areas: Individual tribal reports discussing concerns analogous to task force investigations as independently perceived by tribes and organizations; a comprehensive bibliography and library on Indian Affairs; a detailed table of all Federal Indian programs; and a complete record of individual complaints, deputations, testimonies, case studies, and recommendations related to the areas of study submitted by all sectors of the Indian community. Finally, the Commission designed and maintained a unique accounting system which has insured internal accountability through the establishment of a monthly review of costs and expenditures. This system will facilitate the development of cost benefit analysis.

The final Commission report, a product of Indian participation, representing "a compendium of information on a scale heretofore unavailable to the Federal Government," was submitted to Congress on May 17, 1977, representing the most comprehensive review of Indian policies and programs ever conducted.

II. ORGANIZATION OF THE COMMISSION

On January 2, 1975, Public Law 93-580 which provided for the establishment of the American Indian Policy Review Commission, was signed into law. It was a joint congressional commission composed of three Senators, three Members of the House of Representatives, and five Indian leaders. On January 27, 1975, the President Pro Tempore of the Senate appointed Senators Lee Metcalf, James Abourezk, and Mark Hatfield to the Commission. On February 13, 1975, the Speaker of the House of Representatives appointed Congressmen Lloyd Meeds, Sidney Yates, and Sam Steiger as members of the Commission.

Brief Profiles of the Congressional Commission Members

SENATORS

James Abourezk (Democrat, South Dakota) was born and raised on the Rosebud Indian Reservation. In 1970 he became the first Democrat since the 1930's to win the Second Congressional District seat in South Dakota. In 1972 he was elected to the Senate, where as chair-

man of the Indian Affairs Subcommittee of the former Interior Committee, he sponsored and obtained the passage of a large quantity of Indian legislation, including Public Law 93–580, which created the American Indian Policy Review Commission. He is the chairman of the recently established Senate Select Committee on Indian Affairs. He is also chairman of the Administrative Practice and Procedure Subcommittee of the Judiciary Committee; chairman of the Parks and Recreation Subcommittee on Energy and Natural Resources; and a member of the Budget Committee.

LEE METCALF (Democrat, Montana) was elected U.S. Representative from Montana's First Congressional District in 1952. After four terms in the House of Representatives, he ran for the Senate in 1960, when he served until his death. He was a member of the Indian Affairs Subcommittee on Public Lands and Resources of the Committee on Energy and Natural Resources and chairman of the Joint Committee on Congressional Operations. Additionally, he chaired the Subcommittee on Reports, Accounting, and Management of the Governmental Affairs Committee. He died on January 12, 1978.

MARK HATFIELD (Republican, Oregon) served as Governor of Oregon for two terms before being elected to the Senate in 1966. He has been instrumental in the passage of the Umatilla judgment fund legislation, the McQuinn Strip Act, the Klamath Forest Act and the Comprehensive Indian Health Care Improvement Act, which he cosponsored. Senator Hatfield serves on the Select Committee on Indian Affairs and is ranking minority member of the Public Works Subcommittee of the Appropriations Committee. He is also ranking minority member of the Public Works Subcommittee of the Appropriations Committee. He is also ranking minority member of the Energy Research and Development Subcommittee of the Energy and Natural Resources Committee, ranking minority member of the Rules and Administration Committee and is a member of the Joint Committee on Printing.

REPRESENTATIVES

LLOYD MEEDS (Democrat, 2d District of Washington) has served in the House of Representatives since 1964. When he was chairman of the House Indian Affairs Subcommittee of the Interior and Insular Affairs Committee, he was closely involved in the passage of the Alaska Native Land Claims Settlement Act, The Indian Education Act of 1972, and the Menominee Restoration Act—for his work on the latter legislation he received the 1974 National Congress of American Indians Congressional award. Congressman Meeds is also a member of the Subcommittee on National Parks and Recreation, Territorial and Insular Affairs, and chairman of Water and Power Resources, all of the Interior and Insular Affairs Committee.

SAM STEIGER (Republican, 3d District of Arizona) was elected to the 90th Congress in 1966 and was reelected to the 91st, 92d, 93d, and 94th Congresses. A member of the Interior and Insular Affairs Committee, he played a key role in resolving the Hopi-Navajo land dispute. Mr. Steiger also served as the ranking minority member on both the Government Information and Individual Rights Subcommittee of the Interior and Insular Affairs Committee and the Public Lands Subcommittee of the Interior and Insular Affairs Committee, and as a member of the Commission on the Review of the National Policy

Toward Gambling. He was unsuccessful in a bid for election to the U.S. Senate in the 95th Congress. His vacancy on the Commission was subsequently filled by the appointment of Congressman Don Young.

DON YOUNG (Republican, representative-at-large of Alaska) was elected to the 93d Congress, in a special election March 6, 1973, to fill the vacancy created by the death of Congressman Nick Begich; and was reelected to each succeeding Congress. He has served as the ranking minority member of the Indian Affairs Subcommittee of the Interior and Insular Affairs Committee and member of the Ad Hoc Select Committee on the Outer Continental Shelf, and the Merchant Marine and Fisheries Committee.

SIDNEY R. YATES (Democrat, 9th District of Illinois) was elected to Congress in 1948 and has served in the House of Representatives since that time, except for a 2-year period when he served as U.S. Representative to the Trusteeship Council of the United Nations. Congressman Yates is chairman of the Interior Subcommittee of the House Appropriations Committee and a member of the Transportation and Legislative Subcommittee of the House Appropriations Committee.

ORGANIZATIONAL MEETING

On March 5, 1975, the congressional members met for their organizational meeting. At that meeting, Senator Abourezk was elected as chairman of the Commission and Congressman Lloyd Meeds was elected as vice-chairman. Both served as chairman of the Indian Affairs Subcommittees of their respective Chambers of Congress. The Commission then adopted a set of rules under which it would conduct its meetings. These rules were based on existing Senate rules, which were conformed to the requirements of Public Law 93–580.

Following a brief discussion of office facilities and equipment, the Commission moved for the selection of the Indian Commissioners pursuant to section 1(c) of the act. After a review of numerous recommendations received from Indian organizations, tribes, and legislators, the congressional Commissioners chose, by a majority vote, the Indian members for the categories mandated in the act. From federally recognized tribes, the members selected were: John Borbridge, Tlingit, Alaska; Ada Deer, Menominee, Wisconsin; and Jake Whitecrow, Quapaw-Seneca, Oklahoma. From nonfederally recognized tribes; Adolph Dial, Lumbee, North Carolina. Urban Indians were represented by Louis Bruce, Mohawk Sioux, New York.

Pursuant to section 6(a) of the act, the Commissioners then appointed Ernest L. Stevens, Oneida; as the staff director and Kirke Kickingbird, Kiowa as the general counsel. Staff consultants were also appointed to aid in the development of investigative programs, procedures, budgets, and organizational plans.

BRIEF PROFILES OF INDIAN COMMISSION MEMBERS

FEDERALLY RECOGNIZED TRIBES

ADA DEER served as chairperson of the Menominee Restoration Committee. Mrs. Deer, a trained social worker, withdrew from law school to lead the fight against termination and is credited as the single most

important force behind the success of the Menominee Restoration Act, which returned the tribe to Federal trust status. Under her leadership the Menominee Restoration Committee developed and submitted plans to Congress for the return of the tribal assets to Federal protection and, also, a new modern constitution was written and adopted by the tribe.

JAKE WHITECROW, a former Quapaw tribal chairman who served on that tribe's business committee since 1953, is the director of the Inter-tribal Council of Northeastern Oklahoma, which represents the Eastern Shawnee, Seneca-Cayuga, Wyandot, Quapaw, Ottawa, Peoria, Miami, and Modoc. The Ottawa and Peoria Tribes in Oklahoma were terminated in 1956. He has served on the Muskogee Area Indian Health Advisory Board. Mr. Whitecrow is a member of the Quapaw and Seneca-Cayuga Tribes, which are both federally recognized.

JOHN BORBRIDGE is president of Sealaska Corp., one of the 12 regional Native corporations established under the Alaska Native Claims Settlement Act for which he lobbied extensively while serving as president of the Tlingit-Haida Central Council. Mr. Borbridge is a member of the Executive Committee of the Rural Affairs Commission of Alaska and is a member of the Financial Advisory Board of the American Indian National Bank.

URBAN INDIANS

LOUIS R. BRUCE, Mohawk and Oglala Sioux, received his honorary doctorates from Clarkson University and Navajo College, and served as BIA Commissioner from 1969–72. Over the years, Mr. Bruce has served on President Roosevelt's and President Eisenhower's Advisory Indian Committee and was chairman of President Truman's Advisory Indian Committee. Mr. Bruce has also been active in the formation or early development of the National Congress of American Indians, the National Tribal Chairman's Association, and the American Indian National Bank. Following his tenure as BIA Commissioner, he served as senior fellow for the Antioch School of Law and aided in the formation of the Coalition of Eastern Native Americans, and is presently the president of Native American Consultants, Inc., and consultant to the Department of Housing and Urban Development on their Indian programs.

NONFEDERALLY RECOGNIZED TRIBES

ADOLPH DIAL, Lumbee, is chairman of the American Indian studies Department of Pembroke State University, a member of the American Indian Advisory Council of HEW's Office of Civil Rights and a member of the Board of Directors of the American Indian Historical Society. In 1972, he received a grant to research the history of the North Carolina Lumbees; which resulted in the recently published "The Only Land I Know: A History of the Lumbee Indians," coauthored by Mr. Dial.

FIRST BUSINESS MEETING

The 11 Commissioners were sworn in by Supreme Court Justice Byron White at the commencement of the first business meeting of the

Commission on May 2, 1975. The staff presented for discussion and approved the operations plans, and tentative schedule and budget for the following 2 years. A subcommittee, chaired by Lloyd Meeds with Louis Bruce and Adolph Dial as members, was appointed by the chairman to screen applicants for nominations to be members of the task forces and to study the need to expand the number of task force members and the manner in which those task force members would conduct their investigations. The subcommittee proposed, for consideration, the creation of two additional task forces at the Commission meeting held on June 13, the professional staff assistant was appointed—Max Richtman—and one half of the task force members were voted on and appointed. The Commission also created two additional task forces pursuant to recommendations of the subcommittee which was set up to review the need for additional task forces. These two additional task forces were: No. 10—Terminated and Nonfederally Recognized Indians, which was separated from the Rural and Non-Reservation Indians Task Force. At the Commission meeting on July 11, the remaining task force members were appointed and a review of the plan of operations, tentative schedule and budget of the Commission was conducted. In the following 22 months, the Commission held a series of nine meetings to review, markup, and finally vote on the final Commission report.

III. THE INVESTIGATING TASK FORCES

At the May 2, 1975 Commission meeting, the Commission voted to create a Subcommitteee on Task Forces composed of Vice-Chairman Lloyd Meeds and Commissioners, Adolph Dial and Louis Bruce. The Subcommittee on Task Forces met twice between May 2, and the next Commission meeting on June 13, to review applications for task force positions and letters of recommendations concerning the applications. A list of nominees was presented to the full Commission by the subcommittee on June 13. Additional nominees were brought to the attention of the Commission by individual Commissioners. Each task force was elected by the Commission separately and all nominees were discussed prior to voting. At the completion of this meeting, one-half of the task force members had been elected. The remaining task force members were elected at the Commission's next meeting on July 11.

The act required each task force to be composed of at least two Indian members. Subsequently the AIPRC elected 31 Indians to the available 33 task force positions. The members represented a cross section from all areas of Indian country. The task force members not being full-time employees were authorized to hire full-time specialists well versed in the type of work to be performed.

Between July 20 and August 10, the staff director, the general counsel, and the staff assistant divided the task forces into groups of three and organized briefing sessions. These briefings took place in Denver, Chicago, and Washington, D.C. and the determination as to location was based on the cost for bringing the various task force members together since they resided in diverse parts of the country. General plans and orientation materials were prepared and presented to the task forces to provide a systematic approach for analyzing problems and procedures, which the staff anticipated the Commission would

want to consider. The briefing session consisted of two major areas of discussion, a scope of work, and a plan of operations. The scope of work format provided a specific description of the work to be accomplished. A sample scope of work and plan of operations were presented to the task force members at each of the sessions. After lengthy discussion, these models were refined and finalized, and the task forces were instructed to refer to these models in developing their activities for the following year. Furthermore, a format was developed which standardized the quarterly task force reporting process required by Public Law 93–580.

Task Force Plan of Operations

The initial work of the investigative task forces involved intense planning and work coordination. The task force was composed of a chairman and two task force members who, together with the task force specialists, formulated the basic plans of the task force. The scope of work and the plan of operations were the two basic documents which described the objectives, tasks, and weighted efforts to be addressed by the task force group.

The scope of work was described in the Commission manual of operations under "Proposed Scope of Work Outline" and examples were provided to indicate the basic requirements which constitute a scope of work. This material was to be thoroughly reviewed prior to formulating the final draft for the Commission.

The plan of operations was discussed in the orientation package and the document provided information and guidelines for the plan of operations. A definition of the plan of operations in the context of the Commission's work was as follows:

A statement by the investigative task force group proposing specific studies and methods of accomplishment identified by priority from the Scope of Work.

Each task force statement was to be carefully evaluated to insure maximum coordination and support for each task force group.

The schedule was amended in order to provide an overall acceptable schedule of field activities. Close coordination was required to obtain substance and continuity in the total effort of the Commission. There were other activities which required changes as the work progressed, and those changes were submitted for further coordination. Basically, the plan of operations submittal was divided into five separate categories as follows: Narrative; schedule; process (benchmarks); budget; and reporting system.

Each of the categories played an important role in the overall development of the Commission's goals and objectives. The task force investigative groups had 1 year, by law, to complete their work. The Commission compiled all reports to formulate substantive recommendations and conclusions in a final Commission report prior to January 30, 1977. This extended to May 17, in subsequent amendments to Public Law 93–580. Therefore, great importance was placed upon the development of the task force reports.

Since the American Indian Policy Review Commission's investigations were to be accomplished by a task force constituted body, it became very important that the selection of the members of these task forces be accomplished in a manner which would assure the AIPRC of

a working group which could accomplish hearings, research, and investigation in an efficient, accurate, and publicly credible manner to Indians as well as to Congress and the American public.

In early stages of the planning and administrative implementation of Public Law 93–580, it became readily apparent that it would have been very valuable to have known the problems encountered by other Commissions and investigating bodies. There was little record or evidence about the organizational and functional problems encountered by many of the previous congressional Commissions or the past efforts of the investigating bodies of the executive branch, however, what has come to be known as the Meriam report of 1928 provided some valuable information and insight on the constitution of task forces and the peculiar problems related to their selection and operation. Some of that report's self-criticism became valuable.

The Meriam report critique was very useful in considering the disciplines needed in the selection of task force personnel and staff.

The background, disciplines, as well as the credibility of the prospective task force members had to be evaluated in advance in order to attempt to predict technical and professional quality. The proper mix would result in a report which would be acceptable to the Indian people and Congress alike.

Paramount in the consideration of task force constitution was the issue of what type of candidates should be considered. There seemed to be at least two clear and distinct possibilities:

1. A majority of the members could be chosen purely on the basis of academic, technical, and professional background. These candidates could have been chosen on the basis of their professional and technical experience and background. For instance, published authors in anthropology, ethno-history, law, public administration, economics, and sociology, who had established professional reputations in the field of Indian affairs. These individuals might have been Indian or non-Indian. The accent would have been entirely on professional and technical excellence.

2. The members could have been chosen from tribal leaders or other leadership and professional Indians who specialized in specific areas in Indian Affairs, primarily in the policy development area. This group would include elected leaders and professionals, mostly of Indian descent who were well-known people who had the confidence of Indian tribes and their members.

In assessing the need for integrity and credibility in the final report, the Commission's professional staff recommended to the Commission that an effort be made by the Commission to incorporate both qualities, however, it was recommended that Indian community credibility should be the prime consideration. Subsequently, in May and June of 1975, the Commission approved a plan of operations which provided a means to provide the constituent and technical representation that was necessary.

The Commission believed that Indian representation and input was absolutely necessary.

The members elected by the Commission follow:

Brief Profiles of the Task Force Members

TASK FORCE 1: TRUST RESPONSIBILITY AND FEDERAL/INDIAN RELATIONSHIP, INCLUDING TREATY REVIEW

Chairman: Hank Adams

Hank Adams is a member of the Fort Peck Tribes of Montana, Assiniboine-Sioux. He brought to the Task Force on Trust Responsibility a wide range of skills as a writer, lobbyist, tribal and economic consultant, and paraprofessional legal assistant. He has worked vigorously to prevent the termination of various tribes and has argued treaty rights, Indian hunting, and fighting rights, State jurisdiction, State taxation and civil rights cases, while making effective use of the news media through a newspaper column and numerous published articles.

Member: John Echohawk

John Echohawk is a Pawnee Indian from Oklahoma. He has been elected by the Board of Directors to serve as director for the Native American Rights Funds as of October 1977, having previously served as director from 1973–75. Mr. Echohawk's tenure has earned him the respect of many Indian members of the legal profession and gave him a broad understanding of the legal issues confronting Native Americans. He received his B.A. and his J.D. degrees from the University of New Mexico and is a member of the Colorado Bar Association. Mr. Echohawk is married and has two children.

Member: Douglas Nash

Douglas Nash is a member of the Nez Perce Tribe. He had been employed as an attorney for the Native American Rights Fund (NARF) and later entered private practice specializing in Indian law. He received his B.A. from the University of Idaho and J.D. in 1971 from the University of New Mexico School of Law. Mr. Nash is married and has two children.

TASK FORCE 2: TRIBAL GOVERNMENT

Chairman: Wilbur Atcitty

Wilbur Atcitty is a Navajo. For 4 years he served as director of the Office of Administration for the Navajo Tribe and then for 2 years as executive-administrator to the chairman. His position gave him a first-hand opportunity to observe tribal government and its interaction with the Federal Government. He has also worked with the Office of Navajo Economic Opportunity to provide management and budgeting requirements for reservation housing projects. Mr. Atcitty was married and had three children but, unfortunately, he was killed in an auto accident in May of 1976 and not replaced on the task force.

Member: Alan Parker

ALAN PARKER is a Chippewa-Cree, and formerly the attorney-director for the Washington, D.C., Office of the American Indian Lawyer Training Program and the American Indian Law Center at the University of New Mexico School of Law. He is presently chief counsel for the Senate Select Committee on Indian Affairs. He has worked as an attorney in the Solicitor's Office at the Department of the Interior and for the Indian Civil Rights Task Force. He organized and initiated the publication of the *Indian Law Reporter*, a comprehensive monthly report on developments in Indian law. Mr. Parker is married and has two children.

Member: Jerry Flute

JERRY FLUTE has been the tribal chairman of the Sisseton-Wahpeton Tribe since January 1975. For 4 years prior to that, he was the tribal secretary. Mr. Flute is also chairman of the United Tribes Training Center in Bismarck, N. Dak., and is a former secretary-treasurer of that organization. He has also served on numerous Indian boards and task forces and is a member of the National Congress of American Indians and the National Tribal Chairman's Association. He has attended the National Indian Training Center in Utah, taking a specialized course in tribal government development. Mr. Flute is married and has three children.

TASK FORCE 3: FEDERAL ADMINISTRATION AND STRUCTURE OF INDIAN AFFAIRS

Member: Ray Goetting

RAY GOETTING is a member of the Caddo Tribe and currently the treasurer of the National Congress of American Indians. He brought to the Task Force on Federal Administration and Structure of Indian Affairs 15 years of administrative experience with the Bureau of Reclamation, Department of the Interior, and 16 years of experience as the owner of a business management consulting firm assisting Indian tribes and organizations as well as local businesses in New Mexico. In the Bureau of Reclamation, he served successively as a regional procedures analyst, regional management analyst, and regional administrative officer. As a business consultant, he aided ranchers, small mining companies, manufacturers, and other business concerns. As an NCAI officer, he has been extremely active in regard to Federal-Indian programs and budget processes, and served as a consultant to the staff of the Commission, prior to becoming a member of the task force.

Member: Mel Tonasket

MEL TONASKET: President of the National Congress of American Indians, Chairman of the Colville Business Council, Colville Confederated Tribes. He has also served as chairman of the Reservation Subcommittee of the Governor's Indian Advisory Council for the State of Washington. Involved in the development of the surplus lands at Fort Lawton in Seattle for the United Indians of All Tribes

Cultural Center. On the Indian Advisory Board for Gonzaga University and Eastern Washington State College, and the Water Commission re: Indian Water Rights.

TASK FORCE 4: FEDERAL, STATE, AND TRIBAL JURISDICTION

Chairman: Sherwin Broadhead

SHERWIN BROADHEAD presently residing in Reardon, Wash., is working with the Institute for the Development of Indian Law on treaty rights involving four tribal groups and is serving as consultant to various tribes. He is an attorney, having graduated from George Washington University with a J.D. degree in 1961 and is a member of the Idaho Bar Association. He formerly served as congressional relations officer with the Bureau of Indian Affairs and special assistant for Indian Affairs on the staff of Senator James Abourezk, chairman of the former Senate Subcommittee on Indian Affairs. He has long been an active advocate on Indian tribal sovereignty.

Member: Judge William Roy Rhodes

Judge WILLIAM ROY RHODES, the chief tribal judge of the Gila River Indian Community in Arizona, is a Pima Indian, married and the father of five children and three foster children. Judge Rhodes is president of the American Indian Lawyer Training Program, a member of the National Indian Court Judges Association, and presently a member of the Arizona Governor's Task Force on Police/Community Relations. Prior to being elected chief tribal judge at Gila River, he was involved in law enforcement activities in Maricopa County in the Bureau of Indian Affairs and in the tribal police.

Member: Matthew L. Calac

MATT CALAC is from the Rincon Band of Mission Indians. He has been on the Business Council of the Rincon Band and has also been area vice president of the National Congress of American Indians. He has served as the executive director for Americans for Indian Future and Tradition, which performs legal, social, and health services, as well as job placement and training programs. He chairs the ad hoc Committee on Public Law 83–280 for 29 southern California reservations and directs all of the Inter-Tribal Council of California's efforts relating to Public Law 83–280. He has also been active in other important tribal and California Indian organizations. Mr. Calac is married and has four children.

TASK FORCE 5: INDIAN EDUCATION

Chairwoman: Helen Schierbeck

HELEN SCHIERBECK is a member of the Lumbee Tribe, and is currently involved in several projects relating to Indian education. She is serving as director of the Special Project on the History and Financing of Indian Education for the John Hay Whitney Foundation and as service coordinator for three major Indian education organizations.

From 1966 to 1973, she was closely associated with Federal programs and efforts to improve educational opportunities for Indians. Ms. Schierbeck has published several articles about Indian education and has received numerous awards. She is a doctoral candidate at Virginia Polytechnic Institute.

Member: Earl Barlow

EARL BARLOW is a member of the Blackfeet Tribe. He received his B.A. degree from Western Montana College in 1947. He also holds a master's degree in education from the University of Montana. Mr. Barlow has served as superintendent of schools in both Hot Springs and Stevensville, Mont. In 1970, he became directly responsible for all JOM programs in Montana. Mr. Barlow is presently superintendent of schools on the Blackfeet Reservation.

Member: Lorraine Misiaszek

LORRAINE MISIASZEK, an enrolled member of the Colville Confederated Tribes, served as an elected tribal council member for 4 years, active membership on the Board of Directors of Advocates for Indian Education Northwest Tribes, served as an advisory committee member for Spokane's Education TV Services, a trustee for Fort Wright College of the Holy Names, and a member of the National Indian Education Association. She holds a B.A. and a masters degree from Gonzaga University, Spokane, Wash. Areas of employment have been mainly in the education field; most recently as acting director of the Advocates for Indian Education Northwest Tribes whose main goal is the development of an educational center which will serve the four northwest States in the areas of technical assistance, materials information center, and training assistance for education personnel ultimately improving educational opportunities for Indian youths.

TASK FORCE 6: INDIAN HEALTH

Chairman: Dr. Everett Rhoades

Dr. EVERETT RHOADES is a Kiowa. He has had extensive experience both in practice and in the teaching of medicine. He is presently the chief of the infectious disease section of the University of Oklahoma Medical Center. He is a member of more than a dozen societies and organizations, including the American College of Physicians, the Association of American Indian Physicians (of which he was president and founder in 197-), and the National Congress of American Indians. Dr. Rhoades has published some 40 articles in professional journals. He is married and has five children.

Member: Luana L. Reyes

LUANA REYES is from the Colville Reservation in Washington. Now executive director of the Seattle Indian Health Board, Ms. Reyes has been active in local and national Indian health committees for the last 15 years. She has also served as the Commissioner of the Seattle Indian Services Commission, which houses several Indian programs and has

been active in other community affairs. As a child, she attended schools on or near the Colville Reservation; she has also studied education and business at the University of Puget Sound and the University of Washington. She has one child.

Member: Lillian McGarvey

LILLIAN MCGARVEY is an Aleut from Alaska. She is currently director of health programs for the Aleut League, a nonprofit organization for the Aleut region. As chairperson of the Native Service Unit Board of the Alaska Native Health Board, she is Alaska's representative on the National Indian Health Board. She also serves on the Board of Directors of the Alaska Chapter of the American Public Health Association and is helping the Comprehensive Health Advisory Council of Alaska to draw up a State health plan. In addition, Ms. McGarvey is the Secretary-Treasurer of the Aleut Corporation, one of the 12 regional corporations set up under the Alaska Native Claims Act. She has two daughters and five grandchildren.

TASK FORCE 7: RESERVATION AND RESOURCE DEVELOPMENT AND PROTECTION

Chairman: Peter MacDonald

PETER MACDONALD has been chairman of the Navajo Tribal Council for 5 years. After graduating from the University of Oklahoma with a degree in engineering, he worked with the Hughes Aircraft Co., as an engineer and a member of the technical staff. He returned to work for his tribe first as director of management, methods and procedures, then as director of the Office of Navajo Economic Opportunity. Mr. MacDonald has also been very active in national Indian affairs and State affairs. He is married and has five children.

Member: Ken Smith

KEN SMITH is a member of the Wasco Tribe from the Warm Springs Reservation. Having graduated from the University of Oregon in 1959 with a major in finance and accounting, he has worked for the Confederated Tribes of Warm Springs for 16 years, originally as an accountant and now as general manager for the reservation. In addition to having served 3 years on his tribal council, he has been active in other civic groups and Indian organizations. He is married and has two children.

Member: Phillip Martin

PHILLIP MARTIN is an enrolled member of the Mississippi Band of Choctaw Indians. A member of the tribal council since 1957, he has twice been tribal chairman, first from 1959 to 1965 and again from 1971 to 1975. He has not limited his energies to the tribal council, but has also been chairman of the board of the Choctaw Housing Authority and executive director of the Choctaw Community Action Program. Mr. Martin has been president of the Board of Regents of Haskell Indian Junior College since 1970 and has also been active in other Indian organizations, having served as president of the Board of

United Southeastern Tribes for two terms and also a member of the National Tribal Chairman's Association and the National Congress of American Indians. Mr. Martin is married and has two children.

TASK FORCE 8: URBAN AND RURAL NON-RESERVATION INDIANS

Chairman: Alfred Elgin

THE REVEREND ALFRED ELGIN is a Pomo Indian from California. Until recently, the project director for the Indian Centers Development Services, which works with numerous urban Indian organizations, he is now acting executive director for the American Indian Community House in New York City. He has also worked as executive director for the Intertribal Friendship House in Oakland and as a counselor for the Oakland American Indian Association. He has been a leader in several California Indian organizations, such as the Intertribal Council of California and the California Indian Education Association and has served as the Board Chairman for the United Scholarship Service and as a board member for the Native American Legal Defense and Education Fund. Mr. Elgin has a B.A. in exegetical theology from Bethany Bible College. He is married and has six children.

Member: Gail Thorpe

GAIL THORPE is a member of the Sac and Fox Tribe. The eldest daughter of the famous athlete, Jim Thorpe, she was born in Oklahoma, attended Haskell Indian Junior College and Chilocco Indian School and later graduated from business school in Chicago. She is currently employed as office manager of the regional office of the Girl Scouts in Chicago. Active for many years in Indian affairs, she is now president of the Indian Council Fire and secretary of Descendants of Jim Thorpe, Inc. Ms. Thorpe has served as an Illinois delegate to the Governor's Indian Interstate Council and is the president of Tipi, Inc., an American Indian speaker's bureau.

Member: Edward F. Mouss

EDWARD F. MOUSS is a Creek-Cherokee from Oklahoma. Now executive director for the Creek Nation, he has also worked as the manager of New Enterprise Development for Oklahomans for Indian Opportunity and as a consultant and staff researcher at the University of Oklahoma. He received a B.A. from Oklahoma State University in science management in 1965 and then went on to get a masters of business administration from the University of Tulsa in 1970 and a master of regional and urban planning in 1973 from the University of Oklahoma. Mr. Mouss is married and has two children.

TASK FORCE 9: INDIAN LAW REVISION, CONSOLIDATION AND CODIFICATION

Chairman: Peter S. Taylor

PETER S. TAYLOR is a resident of Arlington, Va., was codirector of the Indian Civil Rights Task Force in the Office of the Solicitor, Department of the Interior. For the past 4 years, he has worked exten-

sively on the revision and consolidation of Indian law. Mr. Taylor is a 1963 graduate of the George Washington University School of Law and is a member of the Virginia and District of Columbia Bar Associations. Prior to his service on the Indian Civil Rights Task Force, he practiced law in the District of Columbia for 7 years.

Member: Yvonne Knight

YVONNE KNIGHT is a member of the Ponca Tribe of Oklahoma, has been a staff attorney with the Native American Rights Fund since 1971. She is currently drafting a tribal constitution and bylaws for the Menominee Tribe and her work has been praised as a model for the development of tribal constitutions. She has been the recipient of numerous grants and scholarships and is a member of six distinguished professional organizations. Ms. Knight received her J.D. from the University of New Mexico Law School in 1971 and is a member of the Colorado Bar Association.

Member: Browning Pipestem

BROWNING PIPESTEM is an Otoe Missouria Osage Indian from Norman, Oklahoma, and a tribal council member of the Otoe-Missouria. Mr. Pipestem, a graduate of the Oklahoma State University Law School is a partner in the law firm of Pipestem, Rivas, and Charles. He is married and is the father of two children.

TASK FORCE 10: TERMINATED AND NON-FEDERALLY RECOGNIZED INDIANS

Chairwoman: Jo Jo Hunt

JO JO HUNT is a Lumbee from North Carolina. She graduated cum laude from Pembroke State University in 1970, and received her degree from Duke University Law School in 1973. After legal experience as a law clerk with a Washington, D.C., law firm and with the Washington Office of Pine Tree Legal Assistance of Calais, Maine, Ms. Hunt was hired as a counsel for the Indian Affairs Subcommittee in the U.S. House of Representatives. She has also been active in several national Indian organizations.

Member: John Stevens

JOHN STEVENS is a Passamaquoddy Indian from Maine. He has been Commissioner of Maine's Department of Indian Affairs for the past 4 years. He has long been active in tribal affairs and was employed as director of the Passamaquoddy Community Action Program. He also worked in the paper mills for 15 years, during which time he was a union leader. He is currently active in a large number of local and national Indian organizations, in addition to serving on several State councils.

Member: Robert Bojorcas

ROBERT BOJORCAS is a member of Klamath Tribe. Formerly a counselor at Central Oregon Community College and at the University of Oregon, he was, until recently, business manager and education chair-

man for the Shoalwater Bay Tribe. Mr. Bojorcas is currently working with CETA as title III coordinator. He has been very active in the affairs of both the terminated Klamath Tribe—serving as a tribal council member—and of Northwestern Indian organizations. He has attended college and is a graduate of the Indian Manpower Training Center in Phoenix. Mr. Bojorcas is married and has two children.

TASK FORCE 11: ALCOHOL AND DRUG ABUSE

Chairman: Reuben Snake

REUBEN SNAKE is a member of the Winnebago Tribe. He is currently the education project director of the Sioux City American Indian Center. Prior to this, he was a national field trainer for Indian education training in which position he made 80 field trips to 27 States. He has also been educational director for the Nebraska Inter-Tribal Development Corp. Mr. Snake has organized a number of conferences and workshops on alcohol and drug abuse; he has helped in developing projects to deal with these problems and has also helped in establishing an alcohol recovery house in Winnebago, Nebr. Mr. Snake is active in the Native American Church, is married and has six children.

Member: George Hawkins

GEORGE HAWKINS is a Southern Cheyenne from Oklahoma. After years of intermittent work due to drinking problems, Mr. Hawkins entered a rehabilitation program in 1966. Soon hired as a janitor, he left that job to become director of the Cheyenne-Arapaho Alcoholic Rehabilitation Center. He is now executive director of the United Indian Recovery Association, which he organized. Mr. Hawkins has been involved in several other State and national organizations relating to alcoholism and has been active in Oklahoma Indian Affairs.

IV. THE ESTABLISHMENT OF THE COMMISSION

HOW THE WORK WAS ACCOMPLISHED

Between the Commission meetings in March 5 and May 2, 1975, the staff concentrated primarily on the legislative interpretation of Public Law 93-580, drafting proper policy and procedural and administrative guidelines for the preliminary study review.

The principal subject discussed by the Commission at its May 2 meeting was related to the functional duties and delegated authorities of the organizational components of the AIPRC: The Commissioners, the task forces, and the staff.

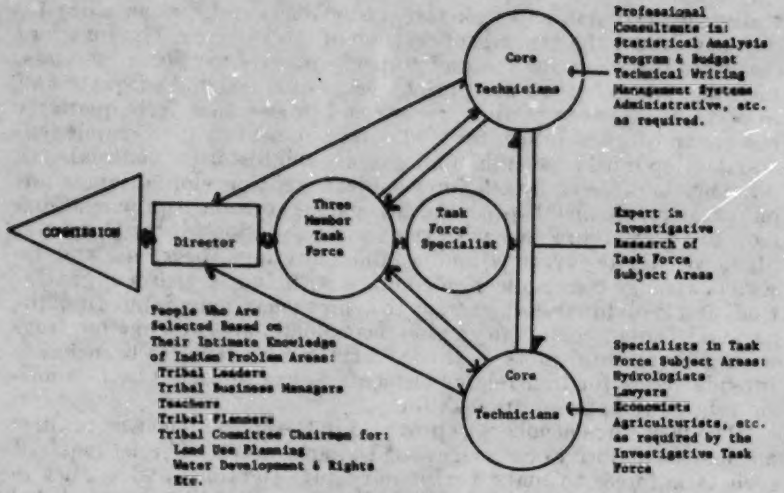
The Commission members decided to meet periodically to establish review and approve policies and procedures for focusing and refining the objectives of the act which created the Commission.

The Commission, at the May 2 meeting, determined that the Director, General Counsel, and staff assistant would conduct the adminis-

trative, operational, and task forces coordination duties on a day-to-day basis under the general supervision of the Director. The functions that were necessary for the staff to perform were to: Secure services, facilities, and necessary equipment; secure qualified and adequate staff to perform necessary studies; review and process task force quarterly reports and forward them for study and comment by the Commissioners; develop initial research, bibliography and historical materials as a reference tool for each task force subject area; develop adequate administrative, financial, procurement, budgetary, and equipment controls to assure compliance with rules and regulations of the Congress; plan, coordinate, arrange and conduct meetings, hearings, and research, arrange communication contacts with Indian tribes, organizations and individuals as necessary to achieve maximum input from the national Indian community; plan, coordinate, and arrange meetings with governmental units of the executive and legislative branches to provide access for interrelated elements to be considered by Commission staff and appropriate task forces.

"The task force members as provided in the act shall consist of three members, a majority of whom are of Indian descent." The act required such task forces to make preliminary investigations and studies in various areas of Indian affairs, including but not limited to nine listed general subjects. Sec. 4(d) required the Commission to provide adequate staff support in addition to the regular Commission staff which is charged with the supervisory and task force coordination responsibilities. The Commission determined that the task force groups would operate within the administrative policies and procedures provided by the Commission and would perform the following functions: Plan and devise the manner in which such investigative work would be carried out to fulfill the scope of work; utilize the services of task force specialists, technical consultants, clerical personnel and such other personnel which may be required to provide a professionally and technically adequate support group for presentation of conclusions and recommendations on the subject matter before the task force; review the scope and anticipated problem areas of each subject, and evaluate the elements in such a manner as to determine whether current activities are adequate. Review such problems on a national basis to determine whether changes in national policy are needed and what specific changes should be recommended; report to the Director to assure coordination and adequate supervision of the task force by the Director and the staff of the Commission; devote the amount of time required to perform the duties for which the individual task force members have been selected. When task force members are unable to perform their duties for health or personal reasons, they shall be replaced with interested and qualified candidates; attend and review Indian meetings which pertain and contribute knowledge and information to support the conclusions and recommendations of their task force.

The following is a graphic illustration of the inter-relationship of the various components of the American Indian Policy Review Commission:


Professional Consultants in: Statistical Analysis Program & Budget Technical Writing Management Systems Administrative, etc. as required.
Core Technicians
COMMISSION
Director
Three Member Task Force
Task Force Specialist
Expert in Investigative Research of Task Force Subject Areas
People Who Are Selected Based on Their Intimate Knowledge of Indian Problem Areas: Tribal Leaders Tribal Business Managers Teachers Tribal Planners Tribal Committee Chairmen for: Land Use Planning Water Development & Rights Etc.
Core Technicians
Specialists in Task Force Subject Areas: Hydrologists Lawyers Economists Agriculturists, etc. as required by the Investigative Task Force

V. THE AMERICAN INDIAN POLICY REVIEW COMMISSION: ITS OBJECTIVES, FUNCTIONS, AND OPERATIONS

Within the scope of the Commission's approved direction, the administration, operation, and planning processes necessary to implement Public Law 93–580 (the American Indian Policy Review Commission), were necessarily complex. In order that no misunderstandings arise related to the purposes, goals, and objectives of the AIPRC mission, the Commission established specific guidelines which were extracted from the legislation and from other adopted procedures in order to summarize the planned implementation of the law. This was distributed to all Commission members, staff, consultants and task force personnel.

1. Planning Philosophy

The philosophy of the planning approach was extracted from the joint resolution itself in which the Commission's organization and purposes were rather explicitly defined. In its initial findings, the Congress, in its joint resolution, said that:

(a) Administrative policy has traditionally shifted and changed without rational design and consistent goals to achieve Indian self-sufficiency;
(b) There has been no comprehensive review on the conduct of Indian affairs since the 1928 Meriam report; and
(c) To carry out its responsibilities and plenary powers, the Congress considered the review as imperative.

2. Planning Approach

The planning approach was deemed necessary after review of previous reports, investigations, various task force studies, and oversight reports on Indian affairs. In reviewing these, particularly the Meriam

Report, the professional staff determined that there were two elements substantively missing from all previous reviews:

Indian participation and options, and

Documented proof of conclusions.

There had been cosmetic attempts at soliciting Indian opinion before but never in a meaningful manner. It was determined that these two missing elements would represent the hallmark of AIPRC's review and investigations.

Indian participation and opinion was to be in the form of documented and verified records. Indian opinion recorded previously meant historical records were to be officially reviewed and included. These were in the form of previous hearings, complaints, resolutions, studies, et cetera. Current studies being made must be documented in these same forms, that is: testimony, hearings, complaints, resolutions, tribal studies, and other documented Indian input. These supportable facts through Indian participation were intended to provide these two missing elements.

3. Organization

The act prescribed the general organization with support staff and duties to perform. An organizational relationship plan between the Commission, professional staff, core staff, consultants and the task forces and their specialists was approved at the Commission meeting of May 2, 1975. In essence, it provided that:

The staff director would coordinate the task forces.

The three-member task force would supervise the activities of the specialists.

The task force central core and administrative staff would relate to the task force but would be supervised by professional staff.

Technical core staff would supply assistance in legal research, technical writing, program and budget analysis, and clerical research.

A mix of consultants, task force personnel, support staff, interns, and professional staff would accomplish the work.

Subsequently, the above was restated in the original budget request and supplementary appropriations request. In addition to the duties of the staff director, other supervision was delegated to the staff director by the Chairman of the Commission by motion, and procedures were adopted. The Commissioners voted to become ex officio members of all task forces.

4. Administrative Implementation

The unique nature and mix of the Commission created several operational and administrative problems since it was literally the first joint-congressional citizen commission in the history of the country. Early logistical problems in the administration of the Commission were resolved by the staff after consultation with the Senate Financial Clerk, Senate Sergeant-at-Arms, the Office of the Speaker of the House of Representatives, and the staff of the Senate Rules Committee and House Administration Committee.

The professional staff decided that a minimum amount of funds should be expended on early organization and administration in order to make a maximum of funds available for the very important task force work. With the approval of the AIPRC, the staff, with the assistance of one management specialist and an intern, completed the entire logistical and administrative support preparation by June 1. Although time was of the essence, it was thought that more careful preparation would, in the end, better serve the intents of the Commission.

It was initially established that:

(*a*) The Commission staff was to avail itself of office space in the Subcommittee on Separation of Powers while office space was being prepared in House Annex No. 2.

(*b*) It was necessary for the staff to submit budget requests to the legislative Appropriations Subcommittees in the House and the Senate for fiscal year 1975, fiscal year 1976 and fiscal year 1977. The budget request for this period was in the amount of $2.6 million. This budget was reviewed and discussed and approved by the Commission at its meeting on May 2.

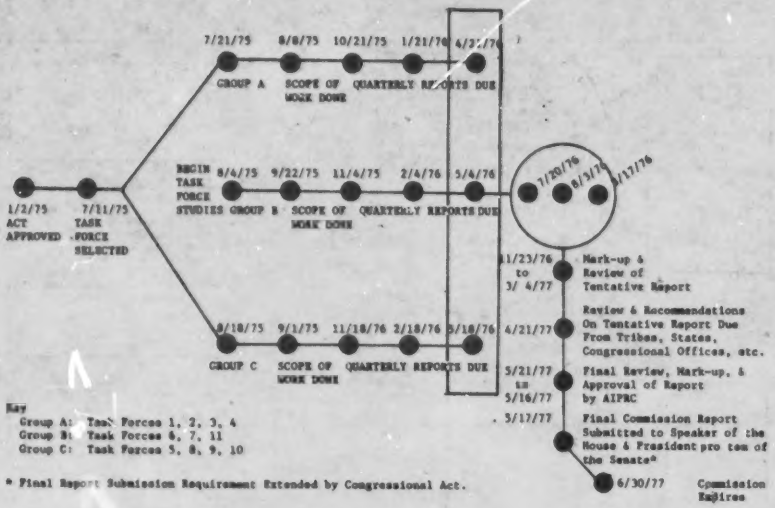
(*c*) Administrative operations: Procedures were necessary to satisfy the rules of the Senate under whose funding the Commission operated. Meetings with the Disbursement Office personnel were held and a pamphlet was prepared on employment, travel, expenses, and supplies for the use of the Commission members and employees.

(*d*) A manual of operations including functional statements, delegations of authority, administrative policies on employment, and accounting was produced which complied with Senate rules. Additional details were necessary to provide for the peculiar organization of the Commission.

(*e*) A separate double entry accounting system was established within the Commission to provide for a separate chart of accounts for each section including each task force. This provided the staff with the capability to closely monitor expenditures in a timely fashion.

A manual which included functional statements, delegations of authority, administrative policies on employment, and accounting was produced which complied with the Senate rules and legislative requirements. Additional details consisted of provisions which were necessary for the administration of a joint congressional citizen's commission participation. The following charts illustrate the flow and organization of the AIPRC activity.

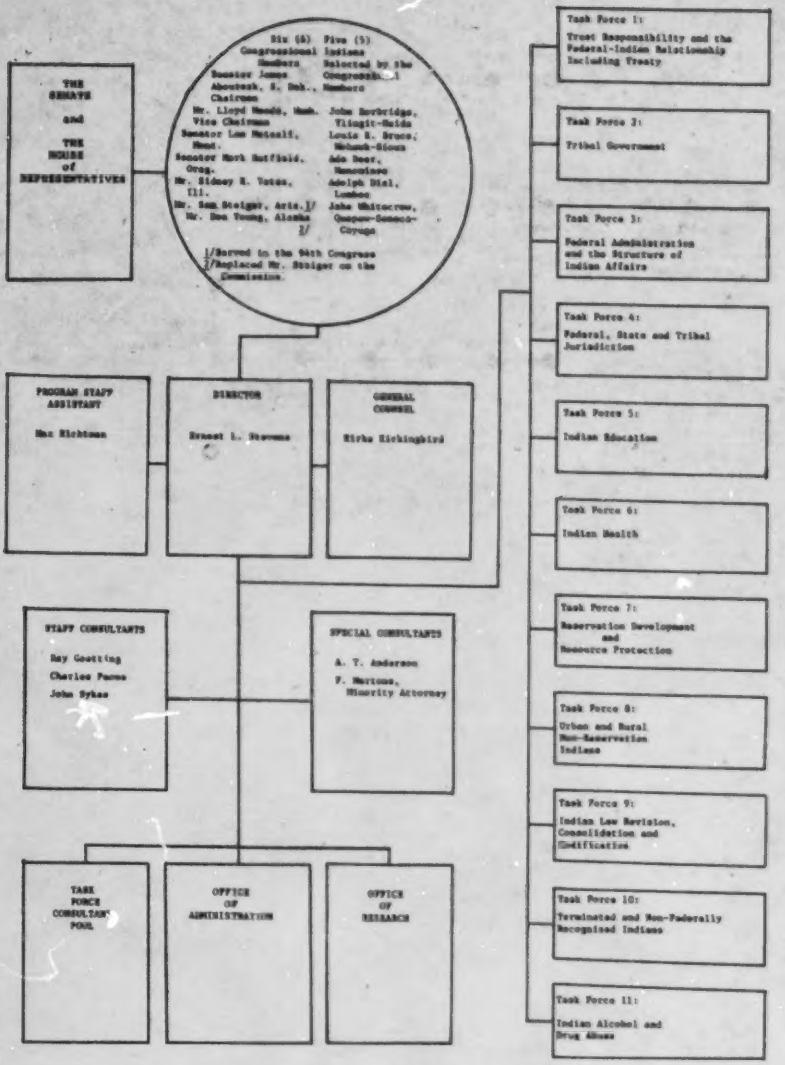
THE SCHEDULE. Key Dates In The Commission's Lifespan



Key
Group A: Task Forces 1, 2, 3, 4
Group B: Task Forces 6, 7, 11
Group C: Task Forces 5, 8, 9, 10

* Final Report Submission Requirement Extended by Congressional Act.

ORGANIZATION


THE SENATE and THE HOUSE of REPRESENTATIVES
Six (6) Congressional Members
Senator James Abourezk, S. Dak., Chairman
Mr. Lloyd Meeds, Wash., Vice Chairman
Senator Lee Metcalf, Mont.
Senator Mark Hatfield, Oreg.
Mr. Sidney R. Yates, Ill.
Mr. Sam Steiger, Ariz.1/
Mr. Don Young, Alaska 1/
Five (5) Indians Selected by the Congressional Members
John Borbridge, Tlingit-Haida
Louis R. Bruce, Mohawk-Sioux
Ada Deer, Menominee
Adolph Dial, Lumbee
John Whitecrow, Quapaw-Seneca-Cayuga
1/Served in the 94th Congress
2/Replaced Mr. Steiger on the Commission.
PROGRAM STAFF ASSISTANT
Mae Richtman
DIRECTOR
Ernest L. Stevens
GENERAL COUNSEL
Kirke Kickingbird
STAFF CONSULTANTS
Ray Goetting
Charles Pecos
John Sykes
SPECIAL CONSULTANTS
A. T. Anderson
F. Martinez, Minority Attorney
TASK FORCE CONSULTANT POOL
OFFICE OF ADMINISTRATION
OFFICE OF RESEARCH
Task Force 1: Trust Responsibility and the Federal-Indian Relationship Including Treaty
Task Force 2: Tribal Government
Task Force 3: Federal Administration and the Structure of Indian Affairs
Task Force 4: Federal, State and Tribal Jurisdiction
Task Force 5: Indian Education
Task Force 6: Indian Health
Task Force 7: Reservation Development and Resource Protection
Task Force 8: Urban and Rural Non-Reservation Indians
Task Force 9: Indian Law Revision, Consolidation and Modification
Task Force 10: Terminated and Non-Federally Recognized Indians
Task Force 11: Indian Alcohol and Drug Abuse

VI. HOW THE AIPRC FINAL REPORT WAS WRITTEN

The last of the task force reports was filed in late September 1976. However, preliminary work on developing the AIPRC final report had begun in September.

Two special consultants were engaged to aid in the editorial work and write papers of their own: the late D'Arcy McNickle, a noted Indian historian, under whose direction a concise history of Indian affairs was developed, and Charles Wilkinson, professor of law at the University of Oregon, who authored a paper on major concepts in Indian law. The McNickle paper appears as chapter 1 of the report and the Wilkinson paper as chapter 3.

The first step in the development of the final report was condensation of the 11 task force reports and two special studies the AIPRC had generated in its first 18 months of operation. Special reports submitted by Indian tribes and their findings were included in references to the Commission. A gross subject matter outline was prepared. Then, each report was carefully studied and examined to extract from each the findings and conclusions. These were summarized with appropriate reference to the report from which the finding or conclusion was drawn.

These findings and conclusions were then organized under the appropriate headings of the gross subject matter outline. In addition to this, and cataloging of findings and conclusions into a single comprehensive form, the staff developed a set of principles which appeared to underlie the findings and conclusions of the various task force reports and studies. These principles served as a focal point for discussion of the main body of the final report.

The first substantive meeting of the AIPRC Commissioners and staff was held November 19–23, 1976. Over this 5-day period, every facet of the report was discussed. The chapter on the role and legal character of tribal government generated the most discussion. The debate and discussion between all elements of the Commission were considered to be the most stimulating and exciting activity of the Commission up to that point. The chapters on Federal administration and economic development were found to be weak and in need of basic development. There was general agreement on the findings and recommendations in matters of social services. However, there were notable questions with respect to delivery of services to Indians in urban areas and to general eligibility of Indian tribes to qualify for Federal domestic assistance programs available to State and local governments.

From December 1976, to March 1977, all effort was bent toward placing the report in legible and comprehensible form, and filling in the major gaps which had been identified. Commission meetings were held January 6, 7; February 4, 5; February 24, 25; and March 4, 1977 to review the work of the staff, refine the language of the report, and sharpen the recommendations which were to be made. The primary area of controversy continued to center on tribal government.

On March 4, 1977, a tentative final draft report was presented by the staff to the 11 Commissioners. Eleven hundred copies of this tentative draft were mailed to Indian tribes, intertribal organizations, interested congressional offices, Federal and State agencies, and other interested parties, both Indian and non-Indian. Comments were requested by April 21, to allow time to make modifications in the report prior to its final presentation to Congress on May 17. The major area of concern highlighted during this period was the continued inadequacy of the chapter on economic development. As a consequence of this criticism, this chapter was completely rewritten.

On May 12, 13, and 16, 1977, the Commission met for the last time. Those chapters or portions of chapters which had not previously been voted on and approved were reviewed and adopted. The most notable of these were the chapters on Federal administration and economic development. A foreword and a summary of recommendations were adopted, separate statements of Commissioners were accepted, and the report was submitted to the Speaker of the House and the President Pro Tempore of the Senate on May 17.

The Commission formally expired on June 30, 1977.

VII. ADMINISTRATION

Funding in the amount of $2,600,000 was authorized in Public Law 93-580, as amended, for the financial requirements of the American Indian Policy Review Commission for the period January 2, 1975, through June 30, 1977. This period of time covered a portion of fiscal year 1975, all of fiscal year 1976, the transitional period of July-September 1976, and a portion of fiscal year 1977. Budget requests for each fiscal year and the transitional period were prepared and defended successfully before the House and Senate Appropriation Committees. In addition, two supplemental requests were secured. The total authorization of $2,600,000 was appropriated with the exception of $37.68.

It was evident from the beginning that the Commission had tremendous responsibilities complicated by a compressed timetable of 1 year for task force reports and approximately 2 years overall.

Funds appropriated were disbursed under Senate rules and regulations through the Financial Clerk of the U.S. Senate.

Each task force was delegated the entire administration and conduct of its report and each supervised the disposition of its own funds in order to further guarantee the independence and integrity of the final task force report.

Because of the complexity of the Commission organization which included 11 separate and distinct task forces, a central staff, and sup-

port staff to the task forces, a budget and accounting system was designed and established to provide controls and financial information far beyond the requirements established by the Senate Financial Clerk.

The double-entry system consisted of a general ledger, an expenditure ledger, a task force cost ledger, and a petty cash expenditure ledger.

Budgets were prepared for each of the 11 task forces, the task force support unit, the central staff and Commissioners. Based on these budgets, funds were allocated to each of the task force chairmen. Using the cost accounting system established, each task force chairman was furnished each month with a financial status report reflecting, by expense item, the budgeted amount, the amount expended for the current month, the accumulated expenditures, the balance of funds available for the remaining terms of the task force, and percent expended. The term of the task force was computed on a percentage basis for comparison with percentage of funds expended. On a quarterly basis, and more often during the last quarter of task force operations, the director and the professional staff assistant reviewed and analyzed these financial reports and made adjustments within and between task forces to make certain that all funds were being expended in a timely and appropriate manner and, most importantly, that over obligations could not be incurred.

Additionally, (1) a balance sheet was prepared each month reflecting the current status of funds available from appropriation warrants and cash advanced by the Senate Disbursing Office for petty cash, and (2) an expenditure statement reflecting total expenditures by expense items for the entire Commission for the current accounting period.

Each month, due to the time lag between submission of vouchers and payment by the Senate Disbursing Office, a statement was prepared reconciling AIPRC expenditures with Senate Disbursing Office expenditures.

The accounting procedures also included provision for accrued expenditures or obligation of funds immediately upon commitment. This was extremely important, since statements based solely upon cash expenditures do not reflect a true status of funds available for future use.

On at least two occasions, during the life of the Commission, a review of the financial statements indicated that a continuation of the then current expenditure rate would cause an overobligation and steps were taken to curtail expenditures. During the last 8 months of the term of the Commission, precise projections of expenditures for each remaining month were made.

The following statements reflect the financial status of the AIPRC as of July 31, 1977.

93-440 O - 78 - 3

AMERICAN INDIAN POLICY REVIEW COMMISSION

BALANCE SHEET

AS OF JULY 31, 1977

ASSETS			
Cash In Bank	$ -0-		
Advances Receivable	-0-	$ -0-	
Petty Cash		-0-	$ -0-
Funds Available:			
FY 1975 Advance from Senate Contingency Fund	$1,084.32		
Less: Expenditures	$1,084.32	-0-	
FY 1976 Appropriations	1,860,168.00 1/		
Less: Expenditures	1,859,394.00	774.00	
FY 1977 Appropriations	322,710.00 1/2/		
Less: Expenditures	316,842.37	5,867.63	
FY 1977 Appropriations	366,000.00 2/		
Less: Expenditures	364,721.39	1,278.61	7,920.24
Authorization Available - P.L. 93-580 (as amended)		2,600,000.00	
Less:			
1975 Advance from Senate Contingency Fund	$1,084.32		
1976 Appropriation	1,500,000.00		
1976 Supplemental	385,168.00		
1977 Appropriation	300,000.00		
1977 Supplemental	710.00		
1977 Appropriation	263,000.00		
1977 Supplemental	100,000.00	2,599,962.32	37.68
Accrued Expenditures			
1976		6,542.98	
1977		948.00	
1977		384.00	7,874.98
TOTAL ASSETS			$15,832.90
LIABILITIES AND FUND BALANCE			
Reserve for Encumbrances		$ 7,874.98	
Advance from Senate for Petty Cash	$ -0-		
Less: Expenditures	-0-	-0-	$ 7,874.98
Authorization - P.L. 93-580 (as amended)		2,600,000.00	
Less: Expenditures			
1975	$1,084.32		
1976	1,859,394.00		
1977	316,842.37		
1977	364,721.39	2,592,042.08	7,957.92
TOTAL LIABILITIES AND FUND BALANCE			$15,832.90

1/ Reflects transfer of $25,000 authorized between FY 1976 and FY 1977.
2/ Reflects transfer of $3,000 authorized between FY 1977 and FY 1977.

AMERICAN INDIAN POLICY REVIEW COMMISSION
EXPENDITURE STATEMENT
AS OF JULY 31, 1977

	7/1/75-9/30/76	EXPENDITURES 1976	1977	TOTAL	1976 & 1977	10/1/76-6/30/77	EXPENDITURES 1977	BALANCE 1977
1. Salary and Compensation								
a) Indian Commissioners	$ 42,000.00	$ 41,525.70	$ 4,646.93	$ 46,172.63	$(4,172.63)	$ 23,454.00	$ 22,256.67	$1,197.33
b) Regular Staff	159,300.00	126,737.29	32,555.25	159,292.54	7.46	54,987.00	54,986.93	.07
c) Investigating Task Forces	353,708.00	319,809.54	30,292.71	350,102.25	3,605.75	-	-	-
d) Support to T/F and Core.	342,200.00	256,816.99	68,545.67	325,362.66	16,837.34	121,980.00	119,890.92	2,089.08
e) Interns	23,000.00	5,641.81	12,807.13	18,511.94	4,488.06	-	-	-
TOTAL: SALARY AND COMPENSATION	920,208.00	750,531.33	148,910.69	899,442.02	20,765.98	200,421.00	197,134.52	3,286.48
2. Consultants								
a) Task Force Specialists	219,203.00	202,632.25	208,[illegible].09	223,509.34	(4,306.34)	-	-	-
b) Task Force Consultants	142,878.00	143,438.35	35,[illegible].00	179,101.35	(36,223.35)	-	-	-
c) Task Force Researchers	20,100.00	14,052.00	5,91[illegible].31	19,970.31	129.69	-	-	-
d) Staff Consultants	78,000.00	70,011.31	14,[illegible]6.91	84,128.22	(6,128.22)	51,747.00	54,245.20	(2,498.20)
e) Contracted Studies-Core	126,000.00	60,331.23	44,314.40	104,645.63	21,354.37	24,459.00	24,458.84	.16
f) Contracted Studies-T/F	15,100.00	15,791.28	-	15,791.28	(691.28)	-	-	-
TOTAL: CONSULTANTS	601,281.00	506,256.42	120,889.71	627,146.13	(25,865.13)	76,206.00	78,704.04	(2,498.04)
3. Administration								
a) Agency Contributions	37,500.00	29,307.44	6,527.30	35,834.74	1,665.26	7,349.00	7,349.08	(.08)
b) Travel:								
Indian Commissioners	24,000.00	22,061.56	2,763.11	24,824.67	(824.67)	11,844.00	12,145.07	(301.07)
Congressional Commissioners	2,000.00	1,118.53	834.30	1,752.83	247.17	-	-	-
Regular Staff	25,000.00	24,034.00	720.51	24,754.51	245.49	5,950.00	5,753.41	196.59
Staff Consultants	57,000.00	48,813.29	5,308.09	54,121.38	2,878.62	28,638.00	29,228.05	(590.05)
Task Force Members	207,403.00	187,544.64	11,155.75	198,700.39	8,702.61	-	-	-
Task Force Specialists	100,392.00	89,917.09	875.05	90,792.14	9,599.86	-	-	-
Task Force Consultants	76,401.00	58,338.09	5,434.68	63,772.77	12,628.23	-	-	-
c) Hearings-Core	6,000.00	5,875.12	1,810.25	7,685.37	(1,685.37)	7,971.00	8,282.65	(311.65)
d) Hearings-Task Force	52,706.00	52,065.60	208.30	56,273.90	(3,567.90)	-	-	-
e) Office Supplies	29,987.00	28,221.14	4,078.88	32,300.02	(3,313.02)	13,565.00	12,669.90	895.10
f) Communications	29,000.00	43,310.22	7,003.78	50,314.00	(21,314.00)	9,430.00	8,543.19	886.81
g) Newspapers & Magazines	3,000.00	1,654.71	68.14	1,[illegible]22.85	1,277.15	209.00	209.01	(.01)
h) Printing & Reproduction	12,000.00	12,987.80	1,401.83	14,289.63	(2,289.63)	4,417.00	5,086.47	(669.47)
TOTAL: ADMINISTRATION	661,389.00	609,149.23	47,[illegible]	657,139.20	4,249.80	89,373.00	89,266.83	106.17
GRAND TOTALS:	$2,182,878.00[1]	$1,865,936.98	$317,790.37	$2,183,727.35	$ (849.35)	$366,000.00[1]	$365,105.39	$ 894.61

[1] Reflects transfer of $3,000 authorized between FY 1977 and FY 1977.

AMERICAN INDIAN POLICY REVIEW COMMISSION

RECONCILIATION FISCAL YEAR 1976

July 31, 1977

AIPRC expenditures	$1,859,394.00
Less outstanding vouchers	1,939.28
Total	1,857,454.72
Senate disbursing vouchers	1,858,445.48
Less posted as increases to appropriation	990.76
Total	1,857,454.72

AMERICAN INDIAN POLICY REVIEW COMMISSION

RECONCILIATION FISCAL YEAR 1977

July 31, 1977

AIPRC expenditures	$316,842.37
Senate disbursing vouchers	317,102.37
Less posted as increase to appropriation	260.00
Total	316,842.37

AMERICAN INDIAN POLICY REVIEW COMMISSION

RECONCILIATION FISCAL YEAR 1977

July 31, 1977

AIPRC expenditures	$364,721.39
Less outstanding vouchers	966.96
Less correction	70.00
Total	363,684.43
Senate disbursing vouchers	363,684.43

[redacted]

[redacted]

FINANCIAL STATUS REPORT FOR MONTH ENDING JULY 31, 1977

ACCT. NO.	ITEM	BUDGET 7/1/75- 9/30/76	EXPENDITURES 7/1/75- 9/30/76	BALANCE FY 1976 & 1977	BUDGET 10/1/76- 6/30/77	EXPENDITURES 10/1/76- 6/30/77	BALANCE FY 1977
	SALARY AND COMPENSATION						
601	Indian Commissioners	$ 42,000.00	$ 46,172.63	$(4,172.63)	$ 23,454.00	$ 22,356.67	$1,197.33
603	Staff	159,300.00	159,292.54	7.46	54,987.00	54,986.93	.07
607	Support to T/F & Comm.	342,200.00	325,362.66	16,837.34	121,980.00	119,890.92	2,089.08
611	Student Stipend	23,000.00	18,511.94	4,488.06	-	-	-
	CONSULTANTS						
614	Staff Consultants	78,000.00	84,128.22	(6,128.22)	51,747.00	54,245.20	(2,498.20)
618	Contracted Studies	126,000.00	104,645.63	21,354.37	24,459.00	24,459.04	.16
	ADMINISTRATION						
621	Agency Contributions	37,500.00	35,834.74	1,665.26	7,349.00	7,349.00	(.08)
	TRAVEL						
623	Indian Commissioners	24,000.00	24,824.67	(824.67)	11,844.00	12,145.07	(301.07)
625	Congressional Commissioners	2,000.00	1,752.83	247.17	-	-	-
627	Staff	25,000.00	24,754.51	245.49	5,950.00	5,753.41	196.59
629	Staff Consultants	57,000.00	54,121.38	2,878.62	29,639.00	29,238.05	(390.05)
634	Hearing Expenses	6,000.00	7,685.37	(1,685.37)	7,971.00	8,282.63	(311.63)
637	Office Supplies	20,987.00	23,300.02	(2,313.02)	13,565.00	13,469.90	095.10
639	Communications	89,000.00	50,314.00	(21,314.00)	9,430.00	8,543.19	886.81
644	Newspapers, Magazines	3,000.00	1,722.85	1,277.15	209.00	209.01	(.01)
643	Printing & Reproduction	12,000.00	14,289.47	(2,289.47)	4,417.00	3,946.47	469.47
	TOTALS	$ 994,987.00	$985,713.62	$ 9,273.38	$368,000.00	$363,105.39	$ 894.61

AMERICAN INDIAN POLICY REVIEW COMMISSION

Task Force #1 Trust Responsibilities and the Federal-Indian Relationship

Financial Status Report for Month Ending July 31, 1977

Task Force Term July 21, 1975 to July 20, 1976

Account Number	Expense Item	Budget $	Amount Expended Current Month $	Accumulated Expenditures $	Percent Expended	Balance $
	Salary & Compensation:					
605	Task Force Members	35,520	-0-	34,194.78	96.3%	1,325.22
	Consultants:					
613	Task Force Specialist	22,050	-0-	22,304.07	101.0%	(254.07)
615	Task Force Consultants	8,300	-0-	8,268.84	99.6%	31.16
	Travel:					
629	Task Force Members	13,558	-0-	11,543.85	85.1%	2,014.15
630	Task Force Specialist	5,430	-0-	4,917.45	90.6%	512.55
631	Task Force Consultants	1,466	-0-	994.47	67.8%	471.53
635	Hearing expenses	4,884	-0-	5,788.37	118.5%	(904.37)
	Total	91,208	-0-	88,012.03	96.5%	3,195.97

The term of T F #1 is 100% completed and 96.5% financially expended.

AMERICAN INDIAN POLICY REVIEW COMMISSION
Task Force #2 Tribal Government
Financial Status Report for Month Ending July 31, 1977
Task Force Term July 21, 1975 to July 20, 1976

Account Number	Expense Item	Budget $	Amount Expended Current Month $	Accumulated Expenditures $	Percent Expended	Balance $
	Salary & Compensation:					
605	Task Force Members	33,800	-0-	33,092.82	97.9%	707.18
	Consultants:					
613	Task Force Specialist	19,234	-0-	19,447.31	101.1%	(213.31)
615	Task Force Consultant*	21,000	-0-	24,465.42	116.5%	(3,465.42)
	Travel:					
629	Task Force Members	18,473	(88.73)	17,074.57	92.4%	1,400.43
630	Task Force Specialist	12,130	-0-	10,345.25	86.8%	1,604.75
631	Task Force Consultants	6,450	-0-	5,344.84	82.9%	1,105.16
633	Hearing Expenses	5,000	-0-	2,273.09	45.5%	2,726.91
	Total	116,109	(88.73)	112,243.30	96.7%	3,865.70
	Reduction 5/31/76	-4,667	-0-	-0-	-0-	-4,667.00
		111,442	(88.73)	112,243.30	100.7%	(801.30)

The term of TF #2 is 100% completed and 100.7% financially expended.

*Share of cost of Historical Indian Priorities and Policies 1900-1975 project performed by Task Force #3.

AMERICAN INDIAN POLICY REVIEW COMMISSION
Task Force #3 Federal Administration & the Structure of Indian Affairs
Financial Status Report for Month Ending July 31, 1977
Task Force Term July 21, 1975 to July 20, 1976

Account Number	Expense Item	Budget $	Amount Expended Current Month $	Accumulated Expenditures $	Percent Expended	Balance $
	Salary & Compensation:					
605	Task Force Members	25,500	-0-	29,188.24	114.5%	(3,688.24)
	Consultants:					
613	Task Force Specialist	40,790	-0-	38,296.23	93.9%	2,493.77
615	Task Force Consultant	6,800	-0-	23,143.58	340.3%	(16,343.58)
	Travel:					
629	Task Force Members	20,000	-0-	23,343.90	117.8%	(3,343.90)
630	Task Force Specialist	12,600	-0-	13,194.18	104.7%	(594.18)
631	Task Force Consultants	9,000	-0-	15,333.71	172.8%	(6,333.71)
633	Hearing Expenses	5,000	-0-	3,536.02	70.7%	1,463.98
	Total	119,690	-0-	146,475.86	122.4%	(26,785.86)
	Increase 5/31/76*	+23,335	-0-	-0-	-0-	+23,335.00
	Total adjusted	143,025	-0-	146,475.86	102.4%	(3,450.86)

The term of Task Force #3 is 100% completed and 102.4% financially expended.

*Transfer from other Task Forces for share of cost of Historical Indian Priorities and Policies --1900-1975 project.

AMERICAN INDIAN POLICY REVIEW COMMISSION
Task Force #4 Federal, State & Tribal Jurisdiction
Financial Status Report for Month ending July 31, 1977
Task Force Term July 21, 1975 to July 20, 1976

Account Number	Expense Item	Budget $	Amount Expended Current Month $	Accumulated Expenditures $	Percent Expended	Balance $
	Salary & Compensation:					
603	Task Force Members	22,900	-0-	24,061.69	105.1%	(1,161.69)
	Consultants:					
613	Task Force Specialist	29,200	-0-	29,149.72	99.8%	50.28
615	Task Force Consultants	10,750	-0-	5,878.10	54.7%	4,871.90
619	Contracted Studies	3,100	-0-	3,110.00	100.3%	(10.00)
	Travel:					
629	Task Force Members	20,950	(88.73)	23,194.81	110.7%	(2,244.81)
630	Task Force Specialist	21,430	-0-	20,012.75	93.4%	1,417.25
631	Task Force Consultants	1,710	-0-	1,455.45	85.2%	254.55
635	Hearing Expenses	6,330	-0-	8,680.50	136.7%	(2,350.50)
	Total	116,400	(88.73)	115,553.02	99.3%	846.98
	Reduction 5/31/76*	-4,667	-0-	-0-	-0-	-4,667.00
	Total adjusted	111,733	(88.73)	115,553.02	103.4%	(3,820.02)

The term of Task Force #4 is 100% completed and 103.4% financially expended

*Share of cost of Historical Indian Priorities & Policies--1900-1975 project performed by Task Force #3.

AMERICAN INDIAN POLICY REVIEW COMMISSION
Task Force #3 Indian Education
Financial Status Report for Month ending July 31, 1977
Task Force Term August 18, 1975 to August 17, 1976

Account Number	Expense Item	Budget $	Amount Expended Current Month $	Accumulated Expenditures $	Percent Expended	Balance $
	Salary and Compensation:					
603	Task Force Members	47,713	-0-	45,619.77	95.6%	2,093.23
	Consultants:					
613	Task Force Specialist	29,764	-0-	28,860.51	97.0%	903.49
615	Task Force Consultants	5,212	-0-	8,926.60	171.3%	(3,714.60)
619	Contracted Studies	12,000	-0-	12,681.28	105.7%	(681.28)
	Travel:					
629	Task Force Members	19,207	65.27	17,401.90	90.6%	1,805.10
630	Task Force Specialist	2,500	-0-	4,670.35	186.8%	(2,170.35)
631	Task Force Consultants	3,246	-0-	2,642.38	81.4%	603.62
635	Hearing Expenses	5,000	-0-	8,587.61	171.7%	(3,587.61)
	Total	124,642	65.27	129,390.40	103.8%	(4,748.40)

The term of Task Force #3 is 100% completed and 103.8% financially expended.

AMERICAN INDIAN POLICY REVIEW COMMISSION
Task Force #6 Indian Health
Financial Status Report for Month Ending July 31, 1977
Task Force Term August 4, 1975 to August 3, 1976

Account Number	Expense Item	Budget $	Amount Expended Current Month $	Accumulated Expenditures $	Percent Expended	Balance $
	Salary and Compensation:					
605	Task Force Members	20,300	(192.56)	21,559.80	106.2%	(1,259.80)
	Consultants:					
613	Task Force Specialist	-0-	-0-	-0-	-0-	-0-
615	Task Force Consultant	16,000	-0-	34,197.22	213.7%	(18,197.22)
	Travel:					
629	Task Force Members	24,700	(496.48)	22,952.74	92.9%	1,747.26
630	Task Force Specialist	5,900	-0-	3,132.98	53.1%	2,767.02
631	Task Force Consultant	8,200	-0-	5,791.45	70.6%	2,408.55
635	Hearing Expenses	5,000	-0-	8,070.44	161.4%	(3,070.44)
	Total	80,100	(689.04)	95,704.63	119.5%	(15,604.63)
	To replace funds taken in excess	12,000	-0-	-0-	-0-	12,000.00
		92,100	(689.04)	95,704.63	103.9%	(3,604.63)

The term of Task Force #6 is 100% completed and 103.9% financially expended.

AMERICAN INDIAN POLICY REVIEW COMMISSION
Task Force #7 Reservation & Resource Development & Protection
Financial Status Report for Month ending July 31, 1977
Task Force Term August 4, 1975 to August 3, 1976

Account Number	Expense Item	Budget $	Amount Expended Current Month $	Accumulated Expenditures $	Percent Expended	Balance $
	Salary and Compensation:					
605	Task Force Members	11,105	-0-	13,427.54	120.9%	(2,322.54)
	Consultants:					
613	Task Force Specialist	24,937	-0-	25,047.70	100.4%	(110.70)
615	Task Force Consultants	27,297	-0-	19,706.23	72.2%	7,590.77
617	Task Force Researcher	6,200	-0-	6,751.75	108.9%	(551.75)
	Travel:					
629	Task Force Members	11,545	(312.00)	15,260.39	132.2%	(3,715.39)
630	Task Force Specialist	11,310	-0-	9,256.27	81.9%	2,053.73
631	Task Force Consultants	16,646	-0-	19,085.69	114.6%	(2,439.69)
635	Hearing Expenses	6,300	-0-	266.46	4.2%	6,033.54
	Total	115,340	(312.00)	108,802.03	94.3%	6,537.97
	Reduction 5/31/76*	-4,667	-0-	-0-	-0-	-4,667.00
	Total adjusted	110,673	(312.00)	108,802.03	98.3%	1,870.97

The term of Task Force #7 is 100% completed and 98.3% financially expended.
*Share of cost of Historical Indian Priorities and Policies--1900-1975--project performed by Task Force #3.

AMERICAN INDIAN POLICY REVIEW COMMISSION
Task Force #8 Urban and Rural Non-Reservation Indians
Financial Status Report for Month Ending July 31, 1977
Task Force Term August 18, 1975 to August 17, 1976

Account Number	Expense Item	Budget $	Amount Expended Current Month $	Accumulated Expenditures $	Percent Expended	Balance $
	Salary & Compensation:					
605	Task Force Members	44,228	-0-	45,410.05	102.7%	(1,182.05)
	Consultants:					
613	Task Force Specialist	16,986	-0-	17,883.14	105.3%	(897.14)
615	Task Force Consultants	6,652	-0-	6,652.35	100.0%	(.35)
	Travel:					
629	Task Force Members	27,871	48.48	26,942.64	96.7%	928.36
630	Task Force Specialist	8,047	-0-	7,587.73	94.3%	459.27
631	Task Force Consultants	1,951	-0-	1,592.03	81.6%	358.97
635	Hearing Expenses	4,140	-0-	4,911.69	118.6%	(771.69)
	Total	109,875	48.48	110,979.63	101.0%	(1,104.63)

The term of Task Force #8 is 100% completed ... 101.0% financially expended.

AMERICAN INDIAN POLICY REVIEW COMMISSION
Task Force #9 Indian Law Revision, Consolidation & Codification
Financial Status Report for Month Ending July 31, 1977
Task Force Term August 18, 1975 to August 17, 1976

Account Number	Expense Item	Budget $	Amount Expended Current Month $	Accumulated Expenditures $	Percent Expended	Balance $
	Salary & Compensation:					
605	Task Force Members	37,500	-0-	34,488.43	91.7%	3,011.57
	Consultants:					
613	Task Force Specialist	18,103	-0-	18,606.45	102.7%	(503.45)
615	Task Force Consultants	15,000	-0-	11,327.35	75.5%	3,672.65
617	Task Force Researcher	13,900	-0-	13,218.56	95.1%	681.44
	Travel:					
629	Task Force Members	8,397	-0-	6,355.87	75.7%	2,041.13
630	Task Force Specialist	4,500	-0-	3,625.17	80.5%	874.83
631	Task Force Consultants	1,600	-0-	1,449.25	90.6%	150.75
635	Hearing Expenses	5,000	-0-	773.98	15.5%	4,226.02
	Total	104,000	-0-	89,845.06	86.4%	14,154.94
	Reduction 5/31/78*	-4,667	-0-	-0-	-0-	-4,667.00
		99,333	-0-	89,845.06	90.4%	9,487.94

The term of Task Force #9 is 100% completed & 90.4% financially expended.

*Share of cost of Historical Indian Priorities and Policies--1900-1975--project performed by Task Force #3.

AMERICAN INDIAN POLICY REVIEW COMMISSION
Task Force #10 Terminated and Non-Federally Recognized
Financial Status Report for Month Ending July 31, 1977
Task Force Term August 18, 1975 to August 17, 1976

Account Number	Expense Item	Budget $	Amount Expended Current Month $	Accumulated Expenditures $	Percent Expended	Balance $
	Salary and Compensation:					
605	Task Force Members	54,334	-0-	50,292.87	92.5%	4,041.13
	Consultants:					
613	Task Force Specialist	18,106	-0-	18,107.23	100.0%	(1.23)
615	Task Force Consultants	6,500	-0-	20,086.44	309.0%	(13,586.44)
	Travel:					
629	Task Force Members	26,700	(290.84)	20,977.74	78.6%	5,722.26
630	Task Force Specialist	4,975	48.48	5,754.31	115.7%	(779.51)
631	Task Force Consultants	4,900	48.48	5,382.97	109.9%	(482.97)
635	Hearing Expenses	5,000	-0-	8,071.87	161.4%	(3,071.87)
	Total	120,533	193.92	128,673.63	106.7%	(8,138.63)

The term of Task Force #10 is 100% completed and 106.7% financially expended.

AMERICAN INDIAN POLICY REVIEW COMMISSION
Task Force # 11 Alcohol and Drug Abuse
Financial Status Report for Month Ending July 31, 1977
Task Force Term August 4, 1975 to August 3, 1976

Account Number	Expense Item	Budget $	Amount Expended Current Month $	Accumulated Expenditures $	Percent Expended	Balance $
	Salary & Compensation:					
605	Task Force Members	18,000	-0-	18,766.26	104.3%	(766.26)
	Consultants:					
613	Task Force Specialist	5,809	-0-	5,808.98	100.0%	.02
615	Task Force Consultants	17,766	-0-	16,449.22	92.6%	1,316.78
	Travel:					
629	Task Force Members	12,700	.20	13,431.98	105.8%	(731.98)
630	Task Force Specialist	10,550	(598.30)	8,095.50	76.7%	2,454.50
631	Task Force Consultants	5,000	-0-	4,468.53	89.4%	531.47
635	Hearing Expenses	3,500	-0-	5,313.67	151.8%	(1,813.67)
	Total	73,325	(598.10)	72,334.14	98.6%	990.86

The term of Task Force #11 is 100% completed and 98.6% financially expended.

APPENDIX B

BIBLIOGRAPHY OF MATERIALS USED BY THE COMMISSION

(87)

APPENDIX B

BIBLIOGRAPHY OF MATERIALS USED BY THE COMMISSION

[Compiled by Catherine R. Romano and SuzAnne Ahn]

INTRODUCTION

This bibliography represents some of the major research documents used by the Commission and its task forces in the investigation of their respective subject areas and in the formulation of recommendations to Congress contained in their final reports. In many instances these materials complement those footnoted in the reports. Undertaking a comprehensive bibliography was far beyond our capability. This is, rather, a selected listing of the more easily obtained documents used, which has been compiled from items in the Commission's central research files, the list of items borrowed from the Library of Congress and from certain bibliographies included in task force reports. The following materials were also chosen for their availability to the researcher in Indian affairs and can be obtained by the public as published documents or through organizations or from Government agencies by means of the Freedom of Information Act. Entries are arranged alphabetically by general subject categories. We found it useful, however, to list in separate sections all U.S. General Accounting Office reports, Federal court cases, law review articles and congressional documents. An additional section on bibliographies and bibliographic services is included as an aid to the researcher.

During its study, the Commission recognized the lack of a central means by which to identify and locate information on Indian affairs and, further, has realized the crucial role of historical policies and relationships that span 2 centuries in forming a perspective for Federal decisionmaking on Indian issues. Accordingly, the Commission formally recommended to Congress that the Library of Congress should compile for publication in several phases a collection of native American studies resources.

Permanent records of the Commission including its research files, unpublished hearings transcripts, and administrative records are deposited in Record Group 220, Natural Resources Branch of the National Archives, Washington, D.C. 20408, and are available to searchers.

The Commission wishes to express its thanks to Nina Meiselman, intern, and Deborah Pope, clerical assistant, for their valuable assistance in preparation of the bibliography.

P. 38- blank

CONTENTS

Introduction ..... Page 39

BIBLIOGRAPHY OF THE COMMISSION

Agriculture 43
Agriculture, U.S. Department of 43
Alaska 44
Alcohol and drug abuse 45
Allotment 49
Budget 50
Bureau of Indian Affairs, U.S. 50
Child welfare 55
Commerce, U.S. Department of 56
Commission on Civil Rights, U.S. 57
Credit and loans 58
Crime and criminal law 58
Demography 59
Economic development 60
Education 65
Employment 76
Environment 77
Federal administration 77
Food and nutrition 78
Health 79
Health, Education, and Welfare, U.S. Department of 84
Housing 87
Hunting and fishing rights 87
Indian Civil Rights Act 88
Indian organizations 88
Indian Reorganization Act (IRA) 89
Indian Self-Determination Act 89
Indians 89
Interior, U.S. Department of 99
Johnson O'Malley Act 100
Jurisdiction 101
Land 103
Menominee restoration 105
Micronesia 106
Mineral resources 106
Natural resources 110
Office of Economic Opportunity, U.S. 111
Oklahoma 111
Preference, Indian 111
Recognition 112
Sovereignty 113
State-Indian relations 113
Taxation 114
Termination 115
Treaties 116
Tribal government 117
Trust relationship 118
Urban and rural Indians 118
Water resources 122

SPECIAL MATERIALS

Bibliographies 125
Federal court cases on American Indian issues 129
Law Review articles 143
Reports issued by the General Accounting Office 153

P. 40- blank

BIBLIOGRAPHY OF THE COMMISSION

AGRICULTURE

Getty, Harry T. *The San Carlos Indian Cattle Industry.* Tucson, Univ. of Arizona Press, 1974.

McGinnies, Goldman and Paylore. *Food, Fibre and Arid Lands.* Tucson, Univ. of Arizona Press, 1971

U.S. Department of Agriculture. *A Bibliography on the Agriculture of the American Indian.* Prepared by Everett Edward and Wayne Rasmussen. (U.S.D.A. Miscellaneous Publication Number 447) Washington, U.S. Govt. Print. Off., 1942. 107 pp.

U.S. Department of Agriculture, Special Task Force for American Indian Affairs. *Survey of the Navajo Reservation, Farmington, New Mexico and Window Rock, Arizona, October 20–23, 1975,* Washington, 1975.

———. *Survey of the Seminole Reservation, Hollywood, Fla., January 12–16, 1976.* Washington, 1976.

U.S. Department of the Interior, Bureau of Indian Affairs. *Indians in Agriculture.* (Missouri River Basin Investigation Project Bulletin 422) Bozeman, Mont., July, 1956.

AGRICULTURE, U.S. DEPARTMENT OF

U.S. Department of Agriculture. *Financial and Technical Assistance Provided by the Department of Agriculture and HUD for Nonmetropolitan Planning District in Fiscal Year 1975;* 6th Annual Report to the Congress. Washington, 1976.

———. *Project and Geographic Breakdown: Budget Estimates 1977.* Washington, 1976. 477 pp.

———. *Rural Development Goals; Second Annual Report of the Secretary of Agriculture to the Congress.* Washington, June, 1975. 59 pp.

———. *Rural Development: Information and Technical Assistance Delivered by the Department of Agriculture in Fiscal Year 1974.* Fifth Annual Report to the Congress. Washington, 1975. 94 pp.

U.S. Department of Agriculture, Economic Research Service. *American Indians in Transition.* (Agricultural Economic Report No. 283) Washington, 1975.

P. 42 - blank

———. "Cultural Crossroads: American Indians in the 70's," *The Farm Index*. (Nov.–Dec., 1974) : 12–14.

———. *Farm Real Estate Market Developments*. Washington, July, 1973. 35 pp.

U.S. Department of Agriculture, Farmers Home Administration. *Rural Credit for American Indians: A Handbook of FmHA Programs*. Washington. 23 pp.

U.S. Department of Agriculture, Office of Civil Rights. *Participation in USDA Programs by Ethnic Groups*. Washington, July, 1971. 90 pp.

U.S. Department of Agriculture, Office of Equal Opportunity. *Report on Follow-up to Indian Surveys*. Washington, Spring, 1975.

———. *Report on Pilot Indian Surveys*. Washington, Summer, 1974.

———. *Equal Opportunity Report; USDA Programs 1972*. Washington, 1972. 118 pp.

———. *USDA Programs 1975*. Washington, 1975. 205 pp.

U.S. Department of Agriculture, Rural Development Service. *Guide to Federal Programs*. Washington, 1975.

ALASKA

Alyeska Pipeline Service Co. *Summary, Project Description of the Trans Alaska Pipeline System*. Anchorage, Sept., 1974.

Bancroft, H. H. *The Works of Hubert Howe Bancroft, Vol. XXXIII, History of Alaska, 1830–1885*. San Francisco, A.L. Bancroft Publishers, 1886.

Getches, David. *The Borough Concept in Alaska; The Inupiat People*. Boulder, Colo., Native American Rights Fund.

Hippler, Arthur. *Barrow and Kotzebue: An Exploratory Comparison of Acculturation and Education in Two Large Northwestern Alaska Villages*. Minneapolis, Training Center for Community Programs, Univ. of Minnesota, Dec., 1969.

———. *From Village to Town: An Intermediate Step in the Acculturation of Alaska Eskimos*. Minneapolis, Training Center for Community Programs, Univ. of Minnesota, Oct., 1970.

Kleinfeld, Judith. *Land claims and native manpower staffing regional and village corporations under the Alaska Native Claims Settlement Act of 1971*. Alaska Native Foundation, 1973.

Kresge, D. *Bristol Bay: A Socioeconomic Study*. Univ. of Alaska, 1974.

Native American Rights Fund. *The Fifth Disaster—the Colonization of the North Slope.* Boulder, Colo., Jan.–Mar., 1975. 50 pp.

Rogers, George. *Change in Alaska: People, Politics, and Petroleum.* Seattle, Univ. of Washington Press, 1970.

Schuyten, Peter J. "A novel corporation takes charge in Alaska's Wilderness." *Fortune*, Vol. 92 (Oct., 1975) : 158–168.

U.S. Department of Health, Education, and Welfare, Public Health Service. *Eskimos, Indians and Aleuts of Alaska—a Digest.* Washington, Mar., 1963. 47 pp.

U.S. Department of the Interior. 2(c) *Report: Federal Programs and Alaska Natives.* Task I—An Analysis of Alaska Natives' Well-Being; Task II—Federal Programs for Alaska Natives' Benefit; Task III—A Survey of Natives' Views. 2 Vols. Washington.

U.S. Department of the Interior, Bureau of Indian Affairs. *Report to the Secretary of the Interior by the Task Force on Alaska Native Affairs.* Washington, 1962.

———. *Review Committee Report Number 2 for Program Agreement EOOC 14200493 Between the Central Council of the Tlingit and Haida Indians of Alaska and the Bureau of Indian Affairs.* Washington, Nov., 1974. 52 pp.

U.S. Department of the Interior, Bureau of Indian Affairs, Indian Education Resources Center. *Alaska Natives Need Assessment in Education.* 2 Vols. (Research and Evaluation Report Series No. 18) Washington, 1974.

U.S. Department of the Interior, Fish and Wildlife Service. *Programs related to the Alaska Native Claims Settlement Act, through June 30, 1975.* Washington, U.S. Govt. Print. Off., 1976, 25 pp.

U.S. Federal Field Committee for Development Planning in Alaska. *Alaska Natives and the Land.* Anchorage, U.S. Govt. Print. Off., Oct., 1968.

U.S. Library of Congress, Congressional Research Service. *Alaska Native Claims Settlement Act of 1971 (P.L. 92–203) : History and Analysis.* Prepared by Richard S. Jones. Washington, May 22, 1972. 100 pp.

ALCOHOL AND DRUG ABUSE

Agencies and Programs

Iowa, Office of the Governor. *Comprehensive Treatment Program for Indian Problem Drinkers.* (NIAAA/NCALI Search Document #0000009622) Des Moines, 1971.

Miller, Sheldon, E. Helmick and Lawrence Berg. "Alcoholism: A Statewide Program Evaluation." *American Journal of Psychiatry*, Vol. 131 (1974) : 210–214.

Shore, James and Billee Von Fumetti. "Three Alcohol Programs for American Indians." *American Journal of Psychiatry*, Vol. 128 (May, 1972) : 1450–1454.

Stevens, John W. *Indian Alcoholism Field Survey*. (NIAAA/NCALI Search Document #0001009948) Rockville, Md., 1972.

U.S. Department of Health, Education, and Welfare, Health Services and Mental Health Administration. *Highlights of the Indian Health Program*. Rockville, Md., Sept., 1971.

U.S. Department of Health, Education, and Welfare, National Institute on Alcohol Abuse and Alcoholism. NIAAA/NCALI *Search on Evaluation of Indian/Alaskan Programs*. Rockville, Md., 1976.

———. *Special Report to the Congress on Alcohol and Health*. Washington, Dec., 1974.

———. *Second Report to the U.S. Congress on Alcohol and Health: New Knowledge*. Washington, June, 1974.

"U.S. Journal: Gallup, New Mexico—Drunken Indians." *New Yorker*, Vol. 47 (Sep. 25, 1971).

Wilson, Lawrence and James Shore. "Education of a Regional Indian Alcohol Program." *American Journal of Psychiatry*, Vol. 132 (Mar., 1975) : 255–258.

CULTURAL

Adler, Nathan and Daniel Goldman. "Gambling and Alcoholism, Symptom Substitution and Functional Equivalents." *Quarterly Journal of Studies on Alcohol*, (1969) : 733–735.

Baker, James. "Indians, Alcohol and Homicide." *Journal of Social Therapy*, Vol. 5 (1959) : 270–275.

Berreman, Gerald. "Drinking Patterns of the Aleuts." *Quarterly Journal of Studies on Alcohol*, Vol. 17 (1952) : 503–514.

Broody, Hugh. *Indians on Skid Row*. Canada Northern Science Research Group, Department of Indian Affairs and Northern Development, 1971.

Curley, Richard. "Drinking Patterns of Mescalero Apache." *Quarterly Journal of Studies on Alcohol*, Vol. 28 (Mar., 1967) : 116–131.

Dozier, Edward "Problem Drinking Among American Indians. The Role of Sociocultural Deprivation." *Quarterly Journal of Studies in Alcohol*, Vol. 27 (1966) : 72–87.

Drilling, Vern. Problems with Alcohol Among Urban Indians in Minneapolis. Minneapolis, Training Center for Community Programs, Univ. of Minnesota, Aug., 1970.

Everett, Michael. "Anthropological Expertise and the Realities of White Mountain Apache Adolescent Drinking." Paper presented at the Society for Applied Anthropology, 1973 Annual Meeting.

Ferguson, Frances. *Change from Without and Within, Navajo Indians' Response to an Alcoholism Treatment Program in Terms of Social Stake.* (NIAAA/NCALI Search Document #0000010518) Rockville, Md., 1972.

Ferguson, Frances. *"Stake in Society" theory used in evaluation of Navajo Indians in an Alcoholism Treatment Program.* Dissertation Thesis, Univ. of North Carolina, 1972.

Hamer, John H. "Acculturation Stress and the Functions of Alcohol Among the Forest Potawatomi." *Quarterly Journal of Studies on Alcohol*, Vol. 26 (1965) : 285–302.

Hamer, John H. "Guardian Spirits, Alcohol and Cultural Defense Mechanisms." *Anthropological* (1969) : 215–241.

Heath, Dwight B. "Prohibition and Post-Repeal Drinking Patterns Among the Navajo." *Quarterly Journal of Studies on Alcohol*, Vol. 25 (1964) : 119–135.

Hippler, Arthur E. "Alaskan Athabascan Technique for Overcoming Abuse." *Arctic*, Vol. 27 (1974) : 53–57.

Honigmann, John J. and Irma. "How Baffin Island Eskimos Have Learned to Use Alcohol." *Social Forces.* (1965) : 73–83.

Kim, Yong C. *Study of Alcohol Consumption and Alcoholism Among Saskatchewan Indians.* (NIAAA/NCALI Search Document #0000011905) Report. Rockville, Md., 1972.

Kline, James A., Vitali V. Rozynko, Gary Flint, and Arthur C. Roberts. "Personality Characteristics of Male Native American Alcoholic Patients." *International Journal of the Addictions*, Vol. 8 (1973) : 729–732.

Kunitz, Stephen J. and Jerrold E. Levy. "Changing Ideas of Alcohol Use Among Navajo Indians." *Quarterly Journal of Studies on Alcohol*, Vol. 35 (1974) : 243–259.

Kunitz, Stephen J. Navajo Drinking Patterns. Yale Univ., Ph.D. Dissertation, 1970. University Microfilms, Ann Arbor, 1971 (Microfilm #70–26, 1974).

Kuttner, Robert E. and Albert B. Lorincz. "Alcoholism and Addiction in Urbanized Sioux Indians." *Mental Hygiene* (1967) : 530–541.

Lemert, Edwin M. "The Use of Alcohol in Three Salish Indian Tribes." *Quarterly Journal of Studies on Alcohol*, Vol. 19 (1958) : 90–107.

Levy, Jerrold E. and Stephen J. Kunitz. *Indian Drinking: Navajo Practices and Anglo-American Theories.* New York, John Wiley & Sons, 1974.

Levy, Jerrold E. and Stephen J. Kunitz. "Indian Drinking: Problems of Data Collection and Interpretation." M. Chafetz, ed. Proceedings, 1st Annual Alcoholism Conference of NIAAA (1971): 217–236.

Littman, Gerard. "Alcoholism, Illness, and Social Pathology Among American Indians in Transition." *Journal of Public Health*, Vol. 60 (1970).

Littman, Gerard. *Some Observations on Drinking Among American Indians in Chicago.* Paper presented at 27th International Congress on Alcohol and Alcoholism on Sept. 6, 1964.

Pinto, Leonard J. "Alcohol and Drug Abuse Among Native American Youth on Reservations: A Growing Crisis." National Commn. on Marijuana and Drug Abuse, *Drug Use In America: Problem in Perspective*, Vol. 1.

Pliner, Patricia and Howard Cappel. "Modification of Affective Consequences of Alcohol: A Comparison of Social and Solitary Drinking." *Journal of Abnormal Psychology*, Vol. 83 (1974): 418–425.

Porter, Margaret R., Theodore A. Vieira and Gary J. Kaplan. "Drug Use in Anchorage, Alaska: A Survey of 15,634 Students in Grades 6–12." *Journal of the AMA*, Vol. 223 (1973): 657–664.

Savard, Robert Joseph. *Cultural Stress and Alcoholism: A Study of Their Relationship Among Navajo Alcoholic Men.* Univ. of Minnesota, Ph.D. Thesis, 1968, social work. University Microfilms, Ann Arbor. (Microfilm #69–1532).

Schaefer, Richard T. *White Lightning and the Redmen: American Indian Arrest Rates for Alcohol-Related Offenses.* Paper presented to the Department of Sociology, Western Illinois Univ., May, 1973.

Sievers, Maurice L. "Cigarette and Alcohol Usage by Southwestern American Indians." *American Journal of Public Health*, Vol. 58 (1968): 71–82.

U.S. Department of Health, Education, and Welfare, Indian Health Service, Task Force on Alcoholism. *Alcoholism: A High Priority Health Problem.* Section One, Dec., 1969; Section Two, Feb., 1970; Section Three, Apr., 1970.

U.S. Department of Health, Education, and Welfare, National Institute of Mental Health. *Suicide, Homicide and Alcoholism Among American Indians: Guidelines for Help.* Rockville, Md. (1973).

Westermeyer, Joseph and Gretchen Lang "Ethnic Differences in Use of Alcoholism Facilities." *International Journal of the Addictions*, Vol. 10 (1975) : 513–520.

Whittaker, James O. "Alcohol and the Standing Rock Sioux Tribe II. Psychodynamics and Cultural Factors in Drinking." *Quarterly Journal of Studies on Alcohol*, Vol. 24 (1963) : 80–90.

MEDICAL

DeCarli, Leonore and Charles S. Liebar. "Fatty Liver in the Rat After Prolonged Intake of Ethanol With a Nutritionally Adequate New Liquid Diet." *Journal of Nutrition* (1967).

Jolliffee, Norman and E. Morton Jellinek. "Vitamin Deficiencies and Liver Cirrhosis in Alcoholism." *Quarterly Journal of Studies on Alcohol*, (Dec., 1941) : 544–583.

Kunitz, S. J., J. E. Levy and M. Everett. "Alcoholic Cirrhosis Among the Navajo." *Quarterly Journal of Studies on Alcohol*, Vol. 30 (1969).

Siegel, Harvey H. *Alcohol Detoxification Programs*. Springfield, Ill. Thomas, 1973.

Westermeyer, Joseph J. *Alcohol Related Problems Among Ojibway People in Minnesota: A Social Psychiatry Study*. Univ. of Minnesota, 1970, Health Sciences. University Microfilms, Ann Arbor, (Microfilm #71–18,837).

PEYOTE

Albaugh, Bernard J. and Philip O. Anderson. "Peyote in the Treatment of Alcoholism Among American Indians." *American Journal of Psychiatry*, Vol. 131 (1974) : 1247–1249.

Brand, Stewart. "Indians and the Counter-Culture." *Clear Creek*, Vol. 18 (1972) : 34–37.

Simmons, Benjamin F. "Implications of Court Decisions on Peyote for the Users of LSD." *A Journal of Church and State*, Vol. XI (1969) : 83–91.

Slotkin, J. S. *The Peyote Religion*. New York, Octagon, 1975.

ALLOTMENT

Fritz, Henry. *The Movement for Indian Assimilation*. Philadelphia, Univ. of Pennsylvania Press, 1963.

Gates, Paul W. *Fifty Million Acres: Conflicts Over Kansas Land Policy 1854–1890*. New York, Atherton Press, 1966.

Otis, Delos Sacket. *The Dawes Act and the Allotment of Indian Lands*. Norman, Univ. of Oklahoma Press, 1973.

Priest, Loring Benson. "The Congressional Decision to Use Force." *The Western American Indian*, Richard Ellis, ed., Univ. of Nebraska Press, 1972.

Schurz, Carl. "Present Aspects of the Indian Problem." *The North American Review*, No. 296 (July, 1881) : 1–24.

U.S. Congress. House. Committee on Indian Affairs. *Lands in Severalty to Indians*. Report No. 1576, 46th Cong., 2d Sess. Washington, May 28, 1880.

U.S. Congress. House. *Report of the Joint Committee Appointed to Consider the Expediency of Transferring the Indian Bureau to the War Department*. Report No. 93, 45th Cong., 2d Sess. Washington, 1879.

———. *Dissenting Report*. Report No. 93, 45th Cong., 2d Sess. Washington, 1879.

BUDGET

U.S. Community Service Admin., Div. of State and Local Government, Office of Operations. *Federal Outlays in (each State) Fiscal Year 1975*. 50 Vols. Compiled for the Executive Office of the President, Washington, 1976.

———. *Fiscal Year 1976*. Washington, 1977.

U.S. Office of Management and Budget. *The Budget of the United States Government Fiscal Year 1975*. Washington, U.S. Govt. Print. Off., 1974.

———. *Fiscal Year 1976*. Washington, U.S. Govt. Print. Off., 1975.

BUREAU OF INDIAN AFFAIRS, U.S.

General

U.S. Deartment of the Interior, Bureau of Indian Affairs. *American Indian and the Federal Relationship*. Mar., 1972.

———. *BIA Manual of Operations*. 25 Vol.

———. *Career Development Opportunities for Native Americans*. Washington, 1975. 56 pp.

———. *Estimates of Indian Population Served by the Bureau of Affairs: September, 1968*. Prepared by Office of Program Coordination. Washington (unpublished), Mar., 1969.

U.S. Department of the Interior, Bureau of Indian Affairs, Branch of Education. *Basic Needs of Indian People, Special Report, June, 1957*. Washington, 1957.

Area Offices

Navajo Tribe, Office of the Chairman. *Issue Papers Prepared by the Office of the Chairman, Navajo Tribe for the Bureau of Indian Affairs Management Review of the Navajo Area.* Vol. I—Narrative; Vol. II—Documentation. Aug., 1974.

U.S. Department of the Interior, Commissioner of Indian Affairs. *Executive Review of eastern area program management capability, executive representation, technical assistance capacity and eastern area tribal requirements.* Washington, (mimeo), Aug., 1975. 35 pp.

Budget

U.S. Department of the Interior, Bureau of Indian Affairs. *Budget Justifications, fiscal year 1976.* Washington, 1975. 143 pp.

———. *Budget Justifications, fiscal year 1977.* Washington, 1976. 121 pp.

U.S. Office of Management and Budget, Natural Resources Division. *The Bureau of Indian Affairs Budget Preparation Process.* (mimeo), July, 1975. 189 pp.

U.S. Department of the Interior. *Report on Financial Management and Program Information Systems.* Prepared by Arthur Anderson and Co. (D.O.I. Contract No. 14–01–001–1424) Washington, June, 1972. 250 pp.

Education

Arizona, Department of Education, Division of Indian Education. *1975–1976 Arizona Peripheral Dormitory Program, Flagstaff, Holbrook, Snowflake, Winslow.* Phoenix, 1976.

Navajo Educational Survey. Prepared by Comprenetics, Inc. (B.I.A. Contract #N00–C–1420–6279). Beverly Hills, Calif., June, 1975. 163 pp.

Henninger, D. and N. Esposito. "Regimented Non-Education Indian Schools." The New Republic. (Feb. 15, 1969).

U.S. Department of the Interior, Bureau of Indian Affairs. *Control of Indian Education in BIA Schools: Presidential/Secretarial Objectives for Secretarial Operational Planning System.* (Research and Evaluation Report Series No. 29) Washington, May, 1974. 22 pp.

———. *Control of Indian Education in BIA Schools: A Progress Report.* (Research and Evaluation Report Series No. 29.01) Washington, Aug., 1974.

———. *Control of Indian Education in BIA Schools: A Progress Report.* (Research and Evaluation Report Series No. 29.02) Washington, Sept., 1974. 9 pp.

———. *Control of Indian Education in BIA Schools: A Progress Report.* (Research and Evaluation Report Series No. 29.04) Washington, Feb., 1975. 33 pp.

———. *Control of Indian Education in BIA Schools: A Progress Report.* (Research and Evaluation Report Series No. 29.06) Washington, July/Aug., 1975. 17 pp.

———. *Control of Indian Education in BIA Schools: A Progress Report on the Presidential/Secretarial Objective.* (Research and Evaluation Report Series No. 29.03) Washington, Oct./Nov., 1974. 29 pp.

———. *Doorway toward the light; the story of the special Navajo education program.* Prepared by L. Madison Coombs. Washington, 1962.

———. *Fiscal Year 1977 Statistics Concerning Indian Education.* Washington, 1971. 34 pp.

———. *Nondiscriminatory Educational Assessment of Native Americans Proposed Rules and Regulations.* Washington, Jan., 1976. 18 pp.

———. *Off-Reservation Boarding School Project.* (Research and Evaluation Report No. 11) Washington, Aug., 1972. 21 pp.

———. *The preparation of B.I.A. teacher and dormitory aides.* Prepared by AVCO Economic Systems Corp. 3 Vols. Washington, Apr., 1973.

———. *Special Education Guidelines.* Washington, 1972. 34 pp.

U.S. Department of the Interior, Bureau of Indian Affairs, Indian Education Resources Center. *Chief Area Office Education Officers Quarterly Conference held at Las Vegas, Nev., October 14–16, 1975.* (Research and Evaluation Report Series No. 34.02) Albuquerque, Jan. 1976. 93 pp.

———. *Educational Needs Assessment in the Bureau of Indian Affairs.* (Research and Evaluation Report No. 9) Albuquerque, June 1972. 22 pp.

U.S. Department of the Interior, Bureau of Indian Affairs, Navajo Area Office. *Directives for Implementation of Educational Policy and Practices in Navajo Area Elementary Schools.* Mar. 1973. 49 pp.

———. *Report on Assessment of Pupil Performance 1973–1974 School Year.* Window Rock, Ariz., Dec., 1974. 48 pp.

U.S. Department of the Interior, Bureau of Indian Affairs, Office of Indian Education. *Fiscal Year 1975 Statistics Concerning Indian Education.* Lawrence, Kans., Haskell Indian Junior College Publication Service, 1976.

History

Brookings Institution, Institute for Government Research. *The Problem of Indian Administration.* (The Meriam Report) Washington, D.C., 1928. Reprinted. New York, Johnson Reprint Corp., 1971.

Freeman, J. Leiper, Jr. *The New Deal for Indians: A Study in Bureau-Committee Relations in American Government.* Dissertation, Ann Arbor, Xerox University, Microfilm, 1952.

Indian Affairs: A Report to the Congress by the Commission on the Organization of the Executive Branch of the Government. (The Hoover Report) Washington, U.S. Govt. Print. Off., 1949. 800 pp.

Schmeckebier, Lawrence, F. *The Office of Indian Affairs: Its History, Activities and Organization.* Baltimore, The Johns Hopkins Press, 1972.

U.S. Department of the Interior. *Management Review and Appraisal System.* 4 Vols. Prepared by Booz, Allen and Hamilton, Consultants. Washington, Nov. 15, 1950.

———. *Report to the Secretary of the Interior by the Task Force on Indian Affairs.* Washington, July 10, 1961.

U.S. Department of Interior, Office of Indian Affairs. Committee of One Hundred on Indian Affairs. *The Indian Problem.* Washington, U.S. Govt. Print. Off., 1924.

Zimmerman, W., Jr. "The Role of the Bureau of Indian Affairs Since 1933." *Annals of the American Academy of Political and Social Sciences*, No. 311 (1957).

Legislation

U.S. Congress. S. 1816 and H.R. 10560 (bills). *Indian Resources Development Act of 1967.* 90th Cong.

U.S. Department of the Interior, Bureau of Indian Affairs. *Legislative Program*, Second Session, 94th Congress. Memorandum to Central Office Directors and Area Directors from Ralph Reeser, Congressional and Legislative Affairs staff. Washington, Oct. 2, 1975.

———. Letter to Presiding Officers of All Governing Bodies about reservation programs and proposed legislation. Mar. 21, 1967.

Management

U.S. Civil Service Commission, Atlanta Region. *Special Inquiry at Cherokee Indian Agency, Department of Interior, Cherokee, North Carolina, July 29, 30, 31, 1974.* Atlanta, 1974.

U.S. Civil Service Commission, Bureau of Personnel Management Evaluation. *A Report on Haskell Indian Junior College, Lawrence, Kansas.* Nov., 1974. Washington, 1974.

U.S. Civil Service Commission, Chicago Region Office. *Personnel Management Evaluation at Bureau of Indian Affairs, Minneapolis Area Office, Minneapolis, Minnesota.* Jan. 20–25, 1975. 11 pp.

U.S. Civil Service Commission, Dallas Region Office. *Personnel Management at Bureau of Indian Affairs Area Office, Albuquerque, New Mexico.* Mar., 1975.

———. *Personnel Management at Navajo Area Office, Bureau of Indian Affairs, Gallup, N. Mex.* May, 1975.

———. *Personnel Management at Bureau of Indian Affairs, Muskogee, Oklahoma.* Oct., 1975. 39 pp.

U.S. Civil Services Commission, Denver Region Office. *Evaluation of Personnel Management at the Uintah and Ouray Agency, Bureau of Indian Affairs, Ft. Duchesne, Utah. Oct. 15–18, 1974.*

———. *A Report on Intermountain School Bureau of Indian Affairs, Brigham City, Utah. Feb. 28–Mar. 10, 1972.*

U.S. Civil Service Commission, Seattle Region. *A Report on Equal Employment Opportunity and Labor Management Relations Chemawa Indian School, Salem, Oreg. Feb. 24–28, 1975.* 17 pp.

Organization and Reorganization

National Congress of American Indians. *Federal/Indian Policy and B.I.A. Realignment.* Washington, Fall. 1974.

U.S. Office of Management and Budget, Sub-Task Force on Native Self-Determination. *Crane Report on an Independent Agency, 1971.* Washington, D.C., 1971.

U.S. Department of the Interior, Office of the Secretary, *Bureau of Indian Affairs Central Office Realignment.* Memorandum from the Asst. to the Secretary-Indian Affairs, Marvin L. Franklin, Washington, Apr. 10, 1973. 75 pp.

———. *Management Review of the Bureau of Indian Affairs.* (The Preston Report) Washington, May 27, 1971. 76 pp.

Programs

Clinton, Lawrence, Bruce A. Chadwick and Howard M. Bahr. "Vocational Training for Indian Migrants Correlates of 'Success' in a Federal Program." *Human Organization*, Vol. 32 (Spring, 1973): 17–27.

U.S. Commission on Civil Rights. *Your Right to Indian Welfare: A Handbook on the BIA General Assistance Program* (Clearinghouse Publication No. 45). Washington, Dec., 1973. 49 pp.

U.S. Department of the Interior. *A Follow-Up Study of 1963 Recipients of the Services of the Employment Assistance Program, Bureau of Indian Affairs, Washington, Oct., 1966.* 53 pp.

U.S. Department of the Interior, Bureau of Indian Affairs. *Indian Action Team Program*, Washington, Dec., 1974. 9 pp.

U.S. Department of the Interior, Bureau of Indian Affairs, Chicago Field Employer Assistance Office. *Annual Report 1968–1969. Chicago, Ill., 1969.*

U.S. Department of the Interior, Bureau of Indian Affairs, Division of Credit and Financing. *Annual Credit Report.* Washington, 1972.

U.S. Department of the Interior, Bureau of Indian Affairs, Division of Law Enforcement Service. *Indian Reservation Criminal Justice: Task Force Analysis, 1974–1975.* Washington, 1975. 135 pp.

U.S. Department of the Interior, Bureau of Indian Affairs, Indian Education Resources Center. *Relocation of the Roswell Employemnt Training Center Indian Police Academy.* Albuquerque, Dec., 1972.

U.S. Department of the Interior, Office of Audit and Investigation. *Review of the Indian Action Team Program, Bureau of Indian Affairs.* Washington, Nov., 1975. 35 pp.

CHILD WELFARE

Farris, Charles E. and Lorene S. "Indian Children: The Struggle for Survival." *Social Work*, Vol. 21 (Sept. 1976): 386–389.

Kadustrin, Alfred. *Child Welfare Services.* (2d. ed.) New York, Macmillan Co., 1974.

Unger, Steven, ed. *The Destruction of American Indian Families.* New York, Assoc. on American Indian Affairs, 1977. 90 pp.

U.S. Department of Health, Education, and Welfare, Social and Rehabilitation Service. *Legal and Jurisdictional Problems in the Delivery of SRS Child Welfare Services on Indian Reservations.* (unpublished). Prepared by Center for Social Research and Development, Univ. of Denver, Oct., 1975. 102 pp.

Wallace, Helen M. "The Health of American Indian Children: A Survey of Current Problems and Needs." *Clinical Pediatrics*, (Feb., 1973): 83–87.

COMMERCE, U.S. DEPARTMENT OF

Battelle Memorial Institute. *Field Reports and Final Evaluation of Economic Development Administration Planning Grants.* Washington, May, 1970.

U.S. Department of Commerce, Economic Development Administration. *Annual Reports (1971 through 1974).* Washington.

———. *Evaluation of Impact of Tourism/Recreational Projects for Economic Development Administration.* 3 Vols. (National Technical Information Service COM–73–11697). Prepared by Centaur Management Consultants, Inc., Washington, June, 1973.

———. *An Evaluation of the Public Works Impact Program: Final Report.* Jan., 1975.

———. *Indian Economic Development: An Evaluation of EDA's Selected Indian Reservation Program.* 2 Vols. Washington, July, 1972.

———. *Indian Industrial Parks Funded by EDA.* Washington, Sept., 1975.

———. *Indian Planning Grant Study.* May, 1975. 60 pp.

———. *Qualified Areas Under the Public Works and Economic Development Act of 1965 As Amended.* Washington, Aug. 15, 1975. 82 pp.

———. *Results of a Partnership Between the American Indian and the Economic Development Administration.* Washington, June 30, 1975. 101 pp.

———. *Results of a Partnership Between the American Indian and the EDA.* Aug., 1973.

———. *Summary of Case Studies: Evaluation of EDA Rural Development Activities in 15 Areas.* Washington, 1970, 43 pp.

———. *An Updated Evaluation of EDA Funded Industrial Parks, 1968–1974.* June, 1974.

U.S. Department of Commerce, Office of Minority Business Enterprise. *Higher Education Aid for Minority Business.* Washington, 1970.

———. *OMBE Funded Organizations Directory.* Washington, Jan. 1, 1976. 48 pp.

———. *Policy and Program Recommendations and Delivery Mechanism Design for Federal Strategy to Reach and Aid Business Development on American Indian Reservations, Final Report, Initial Draft. Prepared* by Frank Martinez, First American Management Systems, Dallas, Tex., 1974, 73 pp.

———. A Proposal to Plan and Implement an Indian Business Program Based on the Fiscal Year 1972 Supplemental Appropriation. Prepared by Creeap, McCormick and Paget, Inc., Dec. 3, 1971.

U.S. President, 1969–1974 (Nixon). Executive Order No. 11625. Washington, Oct. 13, 1971. Authorization for OMBE.

———. Executive Order No. 11458. Washington, Mar. 5, 1969. Creating OMBE.

COMMISSION ON CIVIL RIGHTS, U.S.

U.S. Commission on Civil Rights. *The Civil Rights of American Indians.* (Clearinghouse Publication No. 35) Washington, Apr., 1972.

———. *Employment, Housing and Justice.* Washington, 1961. 400 pp.

———. *Employment of American Indians in New Mexico and Arizona.* Washington, Nov., 1972. 200 pp.

———. *Hearing Held in Window Rock, Arizona, Oct. 22–24, 1973.* Vol. 1: Testimony; Vol. II: Exhibits. Washington, 1973.

———. *The Navajo Nation: An American Colony; A Report.* Washington, 1975. 144 pp.

———. *Report of Investigation: Oglala Sioux Tribe, General Election, 1974.* Washington, Oct., 1974. 28 pp.

———. *The Southwest Indian Report.* Washington, May, 1973.

U.S. Commission on Civil Rights, Arizona Advisory Committee. *Indian Employment in Arizona.* Washington, D.C., Feb., 1975.

U.S. Commission on Civil Rights, Indiana Advisory Committee. *Indiana Migrants: Blighted Hopes, Slighted Rights.* Washington, Mar., 1975.

U.S. Commission on Civil Rights, Montana—North Dakota—South Dakota Joint Advisory Committee. *Indian Civil Rights Issues in Montana, North Dakota, and South Dakota.* Washington, Aug., 1974.

U.S. Commission on Civil Rights, Nebraska Advisory Committee. *Nebraska's Official Civil Rights Agencies.* Washington, U.S. Govt. Print. Off., 1975. 101 pp.

U.S. Commission on Civil Rights, New Mexico Advisory Committee. *The Farmington Report: A Conflict of Cultures.* Washington, July, 1975. 171 pp.

CREDIT AND LOANS

U.S. Department of the Interior, Bureau of Indian Affairs, *Annual Credit and Financing Report.* Four reports: 1969 through 1972. Washington.

U.S. Department of the Interior. Office of the Secretary. *Provisions in tribal constitutions regarding mortgaging of tribal lands.* Letter to Senator Abourezk. June 25, 1973.

U.S. Laws, Statutes. *Indian Financing Act of 1974.* Approved Apr. 12, 1974, 93d Cong., 2d Sess. (Public Law 93-262, 88 Stat. 77) Washington, U.S. Govt. Print. Off., 1974.

CRIME AND CRIMINAL LAW

Bureau of Social Science Research. "Comparative Parole Treatment of American Indian and non-Indian Inmates of the U.S. Federal Prisons, Fiscal Years 1973 and 1974." Prepared by Byron Swift and Gary Bickel. Papers on Poverty and Law. (Mimeo) Washington, Dec., 1974. 24 pp.

Conn, Stephen and Arthur E. Hippler. *Final Report—Emmonak Conciliation Board, a Model for a New Legal Process for Small Villages in Alaska.* Univ. of Alaska, Institute of Social, Economic and Government Research, 1974.

Hippler, Arthur E. and Stephen Conn. "Traditional Athabascan Law Ways and Their Relationship to Contemporary Problems of 'Bush Justice'; Some Preliminary Observations on Structure and Function." *Occasional Papers*, Univ. of Alaska, Institute of Social, Economic and Government Research, 1972. 17 pp.

Minnesota, Office of the Governor. *Governor's Commission on Crime Prevention and Control, 1976 Comprehensive Plan.* Minneapolis, 1976.

National American Indian Court Judges Association. *Justice and the American Indian*, Vol. 3: The Effect of Having No Extradition Procedures for Indian Reservations; Vol. 4: Examination of the Basis of Tribal Law and Order; Vol. 5: Federal Prosecution of Crimes Committed on Indian Reservations. Washington, 1974.

Native American Rights Fund, the Indian Corrections Projects. *Alternatives to Incarceration: A Report on the Swiftbird Corrections Center.* Boulder, June 30, 1976.

Stratton, John. "Cops and Drunks: Police Attitudes and Actions in Dealing with Indian Drunks." *International Journal of the Addictions*, Vol. 8 (1973): 613-621

U.S. Commission on Civil Rights, Arizona Advisory Committee. *Adult Corrections in Arizona.* Washington, Dec., 1974. 189 pp.

U.S. Congress. Senate. S. 1—. A bill to codify, revise, and reform title 18 of the United States Code. 94th Congress, 1st Session. Washington. U.S. Govt. Print. Off., 1975.

U.S. Department of the Interior, Bureau of Indian Affairs, Division of Law Enforcement. *Indian Law Enforcement History.* Washington, 1975.

U.S. Department of Justice. Statement of Roger Pauley, Deputy Chief, Legislation and Special Projects Section, Criminal Division before the Subcommittee on Criminal Justice, Committee on the Judiciary, House of Representatives concerning S. 2129 and related bills. Mar. 10, 1976.

U.S. National Commission on Reform of Federal Criminal Laws. *Final Report: A Proposed New Federal Criminal Code.* Washington. U.S. Govt. Print. Off., 1971.

Von Hentig, Hans. "The Delinquency of the American Indian." *American Journal of Police Science* (1945) : 75–84.

DEMOGRAPHY

U.S. Bureau of the Census. *Census of Population: 1970.* Vol. 1, Characteristics of the Population. U.S. Summary. PC(1)–B1 Washington, U.S. Govt. Print. Off., 1973. 366 pp.

———. 1970. *Subject report; American Indians.* PC(2)–1F. U.S. Govt. Print. Off. 1973. 192 pp.

———. 1970 *Subject report; Housing of selected racial groups.* HC (7)–9. Washington. U.S. Govt. Print. Off. 132 pp.

———. 1970 *We, the First Americans.* Washington, U.S. Govt. Print. Off. 19 pp.

———. 1970. *Unpublished data.* Washington, U.S. Govt. Print. Off.

U.S. Bureau of the Census. Report prepared for the U.S. Congress American Indian Policy Review Commission: Task Force on Terminated and Non-Federally Recognized Indians. *Population, Education and Socio-Economic Data for Counties with 400+ Indians.* 1976.

———. Report prepared for the U.S. Congress American Indian Policy Review Commission: Task Force on Terminated and Non-Federally Recognized Indians. *Tribe by County: Population Data for Counties with 25+ Indians,* 1976.

U.S. Department of Health, Education, and Welfare, Office of the Assistant Secretary for Planning and Evalution, Office of Special Concerns. *A study of Selected Socio-Economic Characteristics of*

Ethnic Minorities Based on the 1970 Census. Volume III: American Indians. (HEW Publication, No. (OS) 75-122) Prepared by Urban Assoc., Inc., Washington, July 1974.

U.S. Department of the Interior, Bureau of Indian Affairs, *Estimates of resident Indian population and labor force status, by State and reservation.* Mar., 1973. 19 pp.

———. *The States and their Indian Citizens.* By Theodore W. Taylor. Washington, 1972. 307 pp.

ECONOMIC DEVELOPMENT

General

Barsh, Russel L. "Corporations and Indians: Who's the Villain?" *MBA*, Vol. 46 (June, 1975) : 11-13.

Development Finance Companies, Aspects of Policy and Operation. The Johns Hopkins Press, 1968.

Friedman, Wolfgang G. and George Kalmanoff, (eds.) *Joint International Business Ventures.* New York, Columbia Univ. Press, 1961.

Gillmor, Frances and Louisa W. Wetherill. *Traders to the Navajo, The Story of the Wetherills of Kayenta.* Albuquerque, Univ. of New Mexico Press. 1967. 271 pp.

Jeanneau, Joseph A. *Band Development Training Program Facilitator's Manual.* Prince Albert, Sask, Canada, Training Research and Development Station, 1975; 5 Vols.: Vol. 1. Introduction to the Training Program; Vol. 2. Problem Solving and Communication; Vol. 3. Understanding Government; Vol. 4. Economic Development Process; Vol. 5. Economic Development Process.

Lee, Richard. "Tourism and the American Indian Nation." *Travel Trade Magazine* (July 23, 1973).

Lewis, William Arthur. *Development Planning, the Essentials of Economic Policy.* New York, Harper & Row, 1966.

McNih, Frank. *The Indian Traders.* Norman, Univ. of Oklahoma Press, 1972. 393 pp.

Organization for Economic Cooperation and Development. *Development Co-operation: Efforts and Policies of the Members of the Development Assistance Committee, 1974 Review.* Paris, France, Nov. 1974. 325 pp.

Plananalysis, Inc. and Sterling Institute. *Model Tribal Program Management System.* Encino, Calif., 1976.

Schaa's, J. "Indian Industrial Development and the Courts." *Natural Resources Journal*, Vol. 8 (1968) : 303

Sneistrup, Paul Peter. *The Economy of Greenland.* Copenhagen, Denmark, C. A. Reitsel, 1967.

Snodgrass, Marjorie P. *Economic Development of American Indians and Eskimos 1930 Through 1947.* Washington, U.S. Bureau of Indian Affairs. U.S. Govt. Print. Off., 1968.

Standing Rock Sioux Tribe, Office of Planning and Development. *Review Commentary on DMB's Interagency Staff Study Report on Federal Field Organization for Indian Programs.* Fort Yates, N. Dak. Mar. 7, 1973. 76 pp.

United Nations Industrial Development Organization. *1968 Manual on the Use of Consultants in Developing Countries.* United Nations Sales No. E.68II.B.10, New York.

U.S. Department of Agriculture. *Rural Development, Financial and Technical Assistance Provided by the Department of Agriculture and the Department of Housing and Urban Development for Nonmetropolitan Planning Districts in Fiscal Year 1975, Sixth Annual Report to the Congress.* Washington., 1975. 108 pp.

U.S. Department of Agriculture, Rural Development Service. *Rural Development: Fifth Annual Report of the President to the Congress on Government Services to Rural America.* Washington, 1974.

———. *Guide to Federal Programs for Rural Development.* Washington, 1973. 262 pp.

U.S. Department of Commerce, Economic Development Administration. *Buyers Guide to Products Manufactured on American Indian Reservations.* Washington.

U.S. Department of the Interior, Bureau of Indians Affairs, Division of Indian Business Enterprises. *List of Representative Manufacturing Enterprises Located on or Near Indian Reservations.* Washington.

U.S. Federal Power Commission. 1970 National Power Survey. Washington, U.S. Govt. Print. Off. 1970

U.S. Federal Trade Commission. Los Angeles Regional Office. *System on the Navajo Reservation.* June, 1973.

U.S. Office of Economic Opportunity. *American Indian Business Directory: A Working Handbook.* (OEO pamphlet 6164–3) Washington, 1972.

Special Studies

Arizona, Commission on Indian Affairs. *Survey of the Havasupai Reservation.* Phoenix.

Arizona, Department of Economic Planning and Development. *Arizona Indian Demographic Data: Needs and Recommendations.* Prepared by Benjamin Taylor. Phoenix, 1971.

Bean, Lowell John. *Morongo Indian Reservation: A Century of Adaptive Strategies.* Washington, D.C., Center for the Study of Man, Smithsonian Institution, July, 1974.

Deloria, Vine, Jr. *The Lummi Indian Community: The Fishermen of the Pacific Northwest.* Washington, D.C., Center for the Study of Man, Smithsonian Institution, 1975.

Dana Larson Roubel & Assoc. *Irrigation Feasibility Study Crow Creek: Tribal Farm: Engineering Report 1975.* (Unpublished). Crow Creek Reservation, S. Dak. 1975. 41 pp.

DeMallie, R. *The Pine Ridge Economy: Cultural and Historical Perspectives.* Washington, D.C., Center for the Study of Man, Smithsonian Institution, 1975.

Doyon, Limited. *Annual Report: 1973.* Fairbanks, Doyon, Ltd., 1973.

Gilbreath, Kent. "Business Development on the Navajo Reservation." *New Mexico Business*, Vol. 25 (Mar. 1972) : 3–10.

Jones, Dorothy M. *Patterns of Village Growth and Decline in the Aleutians.* Fairbanks, Institute of Social Economic and Government Research, Univ. of Alaska, 1973.

Kolstad, C. D., D. P. Grimmer, P. Reno and J. M. Tutt. *Appropriate Technology and Economic Development.* U.S. Energy Research and Development, Admin. Contract No. W-7405-Eng. 36, Los Alamos, N. Mex., Los Alamos Scientific Laboratory of the Univ. of California, Oct. 1976. 13 pp.

Manuel, M., J. Ramon and B. Fontana. *Dressing for the Window: Papago Indians and Economic Development.* Washington, D.C., Center for the Study of Man, Smithsonian Institution, 1975.

Marshall, Kaplan, Gans and Kahn. *Oglala Sioux Model Reservation Program.* 12 Vols. San Francisco, Marshall, Kaplan, Gans and Kahn, 1969.

Michael, Robert Elias. *The Economic Problems of the Rio Grande Pueblos.* Unpublished doctoral dissertation, American Studies, Univ. of New Mexico, May, 1976. 290 pp.

Mississippi Band of Choctaw Indians. *Accelerated Progress Through Self-Determination: Second Annual Report of the Choctaw Self-Determination Project, July 1, 1972–Oct. 31, 1973.* Philadelphia, Miss., 1973. 59 pp.

Multi-Housing and Management Systems, Inc. *The S.E.R.A.T.E. Report: An Action Plan for the Standing Rock Sioux.* Nashville, Mar. 18, 1975.

"The Navajos: High, Dry and Penniless." *The Nation* 220 (Mar. 29, 1975) : 359–63.

Pueblo of Laguna. *Pueblo of Laguna Community, Economic and Capital Improvements Program.* Laguna, N. Mex. 1974.

Reno, P. and B. Bahe. "Navajo Indian Economic Planning: The Navajo Indian Irrigation Project." "*New Mexico Business*, Vol. 26 (Nov. 1973) : 3–12.

Ruffing, Lorraine. *Economic Development and Navajo Social Structure.* Washington, D.C. Center for the Study of Man, Smithsonian Institution, 1975.

———. "Navajo Economic Development Subject to Cultural Constraints." *Economic Development and Cultural Change*, Vol. 24 (April, 1976) : 611–621.

Sealaska Corporation. Juneau, Sealaska Corp., 1972.

Stevens, Susan M. *Passamaquoddy Economic Development in Cultural and Historical Perspective.* Washington, D.C. Center for the Study of Man, Smithsonian Institution, 1973. 162 pp.

U.S. Department of Commerce, Economic Development Administration. *Forest Products Complexes for Processing Timber From the Colville Indian Reservation and Ferry County, Washington.* Prepared by Bovay Engineers, Inc., Washington, June, 1965.

———. *Feasibility Study of an Industrial Park on the San Carlos Apache Indian Reservation, Arizona.* Prepared by L. H. Bell & Assoc. Washington, Nov. 1967.

———. *Architectural and Engineering Review Report: Firehawk Recreational Commercial Complex, Rosebud Sioux Reservation, S. Dak.* Prepared by Walter Butler Co. Washington, Dec. 6, 1968.

———. *Rosebud Sioux Industrial Development Project.* Prepared by Kirschner Assoc. Inc., (EDA Contract No. 8–35136) Washington D.C., Feb. 1969.

———. *Crow Reservation Tourism Facilities.* Washington, 1972.

U.S. Department of Housing and Urban Development. *Planning for the Umatilla Indian Reservation: Initial Comprehensive Planning Investigation.* Prepared by C. Hill. (HUD Contract Grant No. CPA–OR–10–16–1006) Pendleton, Oreg. Confederated Tribes of the Umatilla, Dec. 1973.

———. *Pinenut Allotments: A Study in Developmental Policy Planning.* Prepared by Murray-McCormick Environmental Group of Nevada. (HUD Project No. CPA–NV–90–39–1007(H)) Stewart, Nev., Washoe Nation Tribal Council, July, 1974.

U.S. Department of the Interior, Bureau of Indian Affairs *Management of the Initial Installation of System Developed for the Blackfeet and Fort Belknap Indian Reservations, Montana.* Prepared by Centaur Management Consultants, Inc. (Contract No. (50 C14 204403) Billings, Mont., Sept. 10, 1973.

U.S. Department of the Interior, Bureau of Indian Affairs, Planning Support Group. *The Sisseton Reservation Area: Its Resources and Development Potential.* (BIA Office of Planning, Report No. 204) Billings, Mont. Nov. 1972.

U.S. Department of the Interior, Bureau of Indian Affairs. *The Zuni Indian Reservation: Its Resources and Development Potential.* (Planning Support Group, Report No. 207 Billings, Mont. 1973.

U.S. Department of the Interior, Bureau of Indian Affairs, Tourism Development. *Tourism Development Plan for Seminole Tribe of Florida.* Denver, Mar. 1974. 69 pp.

U.S. Department of the Interior, Bureau of Land Management. *Multimode Transportation and Utility Corridor Systems in Alaska: A Preliminary, Conceptual Analysis.* Washington, Oct. 1974. 77 pp.

Utah, Office of the State Planning Coordinator. *The Navajo Economic-Demographic Model.* Prepared by Ross Reeve, Rodger Weaver, Eric Natwig. Salt Lake City, 1975.

———. *The Navajo Economic-Demographic Model: NED A Method for Forecasting and Evaluating Alternative Navajo Economic Futures, User's Guide.* Prepared by Bruce M. Stowell. Salt Lake City, Jan. 1976. 47 pp.

Tribal Development Plans

Brady, Consultants, Inc. *Cheyenne River Sioux Reservation Comprehensive Planning Report.* Spearfish, S. Dak. Sept. 1973. 217 pp.

Colville Confederated Tribes. *Overall Economic Development Plan, 1975–76.* Nespelem, Wash. 1975.

Eastern Band of Cherokee Indians, Planning Board. *Comprehensive Plan, Vol. I, Population and Economy Study.* (HUD Contract No. CPA–NC–04–19–1035) Cherokee, N.C., July 22, 1974.

Hoopa Valley Business Council. *Overall Economic Development Plan 74: Hoopa Valley Indian Reservation.* Hoopa, Calif. 1974.

Oneida Nation. *701 Comprehensive Planning Program—Oneida Indian Reservation.* Prepared by Oneida 701 Planning Staff. Green Bay, Wis.

Shoshone and Arapahoe Tribes, Wind River Economic Development Planning Program. *Wind River Reservation.* Wyo. July 30, 1975.

Stevens, Thompson & Runyan, Inc. *Swinomish Comprehensive Plan.* 2 Vols. Seattle, Wash. Feb. 1972.

U.S. Department of Commerce, Economic Development Administration. *Program for Economic Development: Umatilla Indian Reservation, Pendleton, Oreg.* Prepared by Ernst & Ernst, Washington, D.C. Oct. 1969.

———. *Economic Study and Plan: Fort Hall Indian Reservation.* Prepared by Economic Research Assoc. Washington, D.C., Apr. 1973. 200 pp.

———. *1974–1978 Revised Overall Economic Development Program: Warm Springs Reservation.* (EDA Project No. 07–05–15016) Washington, D.C., Apr. 1974.

U.S. Department of Housing and Urban Development. General Plan: *Duck Valley Indian Reservation.* Prepared by Environmental Concerns, Inc., Owyhee, Nev. Duck Valley Indian Tribal Office, July, 1972. 91 pp.

———. *Washoe Nation General Plan.* Prepared by Murray-McCormick Environmental Group of Nevada. (HUD Project No. CPA–NV–09–39–1000) Clearinghouse for Federal Scientific and Technical Information, Washington, D.C., Dec. 1973.

———. *Overall Economic Development Plan for the Chippewa Lac du Flambeau Band.* Lac du Flambeau Reservation. Prepared by Arie Dewaal, Washington, June, 1974. 102 pp.

U.S. Department of the Interior, Bureau of Indian Affairs. *Havasupai Plan: The Secretarial Land Use Plan for the Addition to the Havasupai Indian Reservation.* Phoenix, Mar. 12, 1976.

EDUCATION

General

Adams, Evelyn. *American Indian Education: Government Schools and Economic Progress.* American Education Series, No. 2. 1946 Reprinted. New York, Arno Press, 1972.

Anderson, Hovson D. and Walter C. Ellis. *Alaska Natives: A Survey of Their Educational Status.* 1935 Reprinted. New York, Kraus Reprint Co., 1971.

Arizona Department of Education. *Arizona School Law Index*, Phoenix, 1974.

Bass, W. *An Analysis of Academic Achievement of Indian High School Students in Federal and Public Schools, A Progress Report.* Albuquerque, Southwestern Cooperative Educational Laboratory, 1969.

Blauch, Lloyd E. *Educational Services for Indians.* Prepared for the Advisory Committee on Education. Washington, U.S. Govt. Print. Off., 1939.

Blume, Paul. *An Evaluation of Institutional Vocational Training Received by American Indians through the Muskogee Oklahoma Area Office of the BIA.* Stillwater, Oklahoma State Univ., 1968.

Cavender, Chris. *An Unbalanced Perspective: Two Minnesota Textbooks Examined by An American Indian.* Minneapolis. Training Center for Community Programs, Univ. of Minnesota, Sept. 1970. 21 pp.

Coombs, L. *The Educational Disadvantage of the Indian American Student.* (*E.R.I.C.–CRESS*, Las Cruces, New Mexico Reprinting Service.) Albuquerque, New Mexico State Univ.

Dine Bizaad Naniliih Navajo Language Review. Arlington, Va. Center for Applied Linguistics.

Forbes, J. *California Indian Education, Report of the First All-Indian Statewide Conference on California Indian Education.* Bethesda, Md. ERIC Document Reproduction Service, 1967.

Fuchs, Estelle Krause, R. Havighurst, and Ziegler. *Teachers for American Indian Youth and Curriculum for American Indian Youth.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

Fuchs, Estelle, MacGregor and Aurbach. *The Status of American Indian Education.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

Fuchs, Estelle and Robert Havighurst. *To Live on This Earth: American Indian Education.* Garden City, N.J., Doubleday.

Hackbert, Peter H. *First Interim Report on Adult Indian Literary and Educational Attainment in Oklahoma.* Norman, Okla. American Indian Institute, Nov. 1975. 45 pp.

Hammond, Karon Sherarts, R. Woods and A. Harkins. *Junior High Indian Children in Minneapolis: A Study of One Problem School.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

Hanson, Lorie, Arthur Harkins, Karon Sherarts and Richard Woods. *Suburban School Children and American Indians: A Survey of Impressions.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, May, 1970. 49 pp.

Harkins, Arthur, Karon Sherarts and Richard Woods. *The Formal Education of Menominee Indian Children: Sociocultural and Socioeconomic Background Factors.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

———. *Indian Education in Minneapolis: An Interim Report.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, Dec. 1969. 35 pp.

Havighurst, Robert and Birchard. *Boarding Schools for Indian Youth and the Design of the National Study: Sampling, Instruments and Field Research Methods.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

Idaho, Department of Education. *Indian Education Annual Report 1974–1975.* Boise, 1975. 35 pp.

Indian Students and Guidance. (Guidance Monograph Series) Boston, Houghton Mifflin, 1971.

Jones, Louis T. *AmerIndian Education.* San Antonio, Naylor Co., 1972.

Kleinfeld, Judith. *A Long Way From Home: Effects of Public High Schools on Village Children Away From Home*, p. 119. Center for Northern Education Research and Institute of Social Economic and Government Research—Univ. of Alaska. 1973.

LaFlesche, Francis. *The Middle Five: Indian Schoolboys of the Omaha Tribe.* Madison, Univ. of Wisconsin Press, 1963. 152 pp.

Maynes, J. *Bilingual Education in Arizona. Report 3, Bilingual Programs in the Southwest.* Bethesda, Md. ERIC Document Reproduction Service, 1967.

Mertzberg, Hazel W. *Teaching a Pre-Columbian Culture: The Iroquois.* Albany, New York State Education Department, Bureau of Secondary Curriculum Development. Rev. 1975. 77 pp.

Michigan, Commission on Indian Affairs. *An Evaluation Report on the State Office of Indian Education.* Lansing, Jan. 1976. 21 pp.

Michigan Department of Education. A Position Statement on Indian Education in Michigan With Recommendations and Guidelines. Lansing, 1974, 49 pp.

Montana, State Board of Education. *Indian Culture Master Plan.* Helena, Mont. Dec. 15, 1975.

Mickelson, Norma and Charles Galloway. "Cumulative Language Deficit Among Indian Children." *Exceptional Children* (Nov. 1969): 187–190.

National Advisory Council on Indian Education. *Indian Education: The Right to be Indian: The Third Annual Report to the Congress of the United States.* Washington, U.S. Govt. Print. Off. 1976.

National Education Association. *Educational Needs of American Indian People.* Prepared by Carl Downing. Washington, D.C., Dec. 10, 1975. 11 pp.

———. *Project 1975: Educational Neglect, On-Site and Research Reports, Working Papers for Participants Conference on Educational Neglect, February 15–18, 1975.* Washington, D.C., 1975.

National Indian Training and Research Center. *Public School Survey of Construction Aid Needs Related to the Education of Reservation Indian Children.* Tempe, Ariz. Mar. 1975. 58 pp.

National Study of American Indian Education: Research Reports. 2 Vols. Minneapolis, Office of Community Programs, Univ. of Minnesota, 1970.

Navajo Tribe, Division of Education. *Strengthening Navajo Education.* Window Rock, Ariz. June 1973.

New York Education Department. *Social Studies: Grade 7—Our Cultural Heritage; Grade 8—United States History.* Albany, 1965. 132 pp.

Northern State College, South Dakota. *Model Program for Orientation and Retraining of Teachers, Counselors, and Administrators in Education of Exceptional Indian Children.* Feb. 1973. 150 pp.

Oklahoma, Department of Education. *27th Annual Report of Indian Education in Oklahoma.* Oklahoma City, 1974.

Oklahoma State University, College of Education. *Indian Education Needs Assessment Project.* 4 Vols. Stillwater, Mar. 1976.

Ortiz, Alfonso. *Project Head Start in an Indian Community.* Chicago, Univ. of Chicago Press, 1965. 70 pp.

Parmee, Edward A. *Formal Education and Culture Change: A Modern Apache Indian Community and Government Education Program.* Tucson, Univ. of Arizona Press, 1968.

Popewitz, Thomas. "Reform as Political Discourse: A Case Study." *School Review*, Vol. 84 (Nov. 1975): 43–69.

Porter, Pat. "The Failure of Indian Education." *Contemporary Education* (Fall, 1973).

Ramirez, Bruce. *Background Paper on American Indian Exceptional Children.* Paper presented to the National Advisory Council on Indian Education at its Jan. 16–18, 1976, meeting in Reno, Nev.

Rudman, Jack. *Civil Service Examination Passbook: Indian Education—Elementary Teacher.* Brooklyn, National Learning Corp., 1971.

———. *Civil Service Examination Passbook: Indian Education—Secondary Teacher.* Brooklyn, National Learning Corp., 1971.

Selinger, Alphonse and Robert R. Rath. *The American Indian High School Dropout: The Magnitude of the Problem.* (Field Paper No. 30) Portland, Oreg., Northwest Regional Education Laboratory, Feb. 1969.

Smith, Marie H. *Higher Education for Indians in the American Colonies.* M. A. thesis, New York Univ., 1950.

South Dakota, Department of Public Instruction. *Title I Activities in Selected South Dakota Schools*, fiscal year 1971. Pierre.

Szasz, Margaret. *Education and the American Indian: The Road to Self-Determination 1928–1973.* Albuquerque, Univ. of New Mexico Press, 1974.

United Scholarship Service. "*The Necessity of Education is Admitted.* Denver, 1972. 48 pp.

U.S. Department of Health, Education, and Welfare, Educational Resources Information Center, Clearinghouse on Rural Education and Small Schools (ERIC–CRESS). *Development of Vocational Education Programs for American Indians.* Las Cruces, N. Mex., Oct. 1969.

———. *Indian Parent Involvement in Education. A Basic Sources Book.* Las Cruces, New Mex. June, 1973.

U.S. Department of Health, Education, and Welfare, Office of Education. *Descriptive Case Studies of Nine Elementary School Media Centers in Three Inner Cities.* Washington, 1968.

———. *Emphasis on Excellence in School Media Programs: Descriptive Case Studies Special Purpose Grant Programs.* Washington, 1969. 227 pp.

———. *A Handbook on Evaluation for Title IV Indian Education Act Projects.* Prepared by CPI Assoc. Inc., Washington, 1973.

———. *Indian Education and Civilization.* Prepared by Alice C. Fletcher, Washington, U.S. Govt. Print. Off. 1888. New York, Kraus Reprinting Co., 1973.

———. *Legislative Analysis of the Federal Role in Indian Education.* Prepared by Vine Deloria, Jr., (Unpublished), Washington, 1975.

———. National Indian Education Assoc. Library Project. *Identification of Information Needs of the American Indian Community That Can Be Met by Library Services.* Washington, June, 1975. 330 pp.

U.S. Department of the Interior, Bureau of Indian Affairs, *Alaskan Native Needs Assessment in Education Project ANNA.* (Indian Education, Research and Evaluation Report Series No. 18) 2 Vols. Albuquerque, 1974.

———. *Annual Report of the Superintendent of Indian Schools*, 1882–1910. Washington, U.S. Govt. Print. Off.

———. *Basic Needs of Indian People: Special Report.* Washington, June, 1957.

———. *B.I.A. Schoolboard Handbook.* Washington, 1969.

———. *Evaluation Report of the Center for the Study of Migrant and Indian Education, Toppenish, Washington.* Prepared by Paul R. Streiff. (Research and Evaluation Report No. 8) Albuquerque, Summer, 1972.

———. *Guidelines for Teaching Concepts of Fairness, Justice and Democracy in BIA and Tribal-Contract Schools.* (Curriculum Bulletin No. 18) Albuquerque, Aug. 1975. 25 pp.

———. Higher Education Evaluation: Student Characteristics and Opinions. Washington, June 25, 1973.

———. *Indian Education—Steps to Progress in the 70's.* Washington, 1973.

———. *Institute for American Indians Arts Transition Evaluation.* Washington, Oct. 1972.

———. *Off-Reservation Boarding School Project, Research and Evaluation Report.* Washington. Aug. 1972.

———. Residential School Analysis, fiscal year 1976. Washington, 1976.

———. *Survey of Bilingual Education Needs of Indian Children.* Prepared by National Indian Training and Research Center. (Research and Evaluation Report Series No. 36) Albuquerque, Oct. 1975.

———. *Task Force Report on Anadarko Area Residential Schools.* Anadarko Area Residential Schools. Anadarko, Okla. Feb. 1976.

U.S. Department of the Interior, Bureau of Indian Affairs. Indian Education Resources Center. *Amended Annual Program Plan for Fiscal Year 1976 Under Part B, Education of the Handicapped Act as amended by Public Law 93-380.* Albuquerque, June, 1975. 177 pp.

———. *An Analysis of Academic Achievement of Indian High School Students in Federal and Public Schools.* Prepared by William P. Bass. (Research and Evaluation Report Series No. 37) Albuquerque, May, 1971.

———. *Leadership Conference in Elementary Science Education University of New Mexico.* (Research and Evaluation Report Series No. 19.00) Albuquerque, Summer, 1975. 22 pp.

———. *Student Rights and Responsibilities: A Progress Report.* (Research and Evaluation Report Series No. 25–B) Albuquerque, Apr. 1974.

U.S. Department of the Interior, Bureau of Indian Affairs. *Student Rights and Responsibilities: A Review of the Draft of Program Guidelines.* (Research and Evaluation Report Series No. 25–A) Albuquerque, Feb. 1974. 33 pp.

U.S. Department of the Interior, Bureau of Indian Affairs, Navajo Area Office. *Art.* Window Rock, Ariz. 1971.

———. *Guidance Curriculum Guidelines.* Window Rock, Ariz. 1971.

———. *High School Guidance.* Window Rock, Ariz. 1973.

———. *Navajo Area Health and Physical Education Curriculum Guidelines.* Window Rock, Ariz. Oct. 1974.

———. *Navajo Area Language Arts Project: NALAP.* 2 Vols. Window Rock, Ariz., 1973.

———. *Navajo Area Science Curriculum.* Window Rock, Ariz., 1975.

———. *Social Studies: Grades: Beginners—4.* Window Rock, Ariz., Aug. 1970.

U.S. Department of the Interior, Bureau of Indian Affairs, Office of Education. *Proceedings of a Conference on Early Childhood Education for American Indians Held March 5–7, 1968.* Washington, D.C., 1968.

U.S. Department of the Interior, Office of the Solicitor, *Eligibility for Bureau of Indian Affairs Services: Impact of Public Law 93-638.* Memorandum to Commissioner of Indian Affairs. Oct. 20, 1975.

———. *Indian Legal Activities. Status of Land Reserved for School, Agency, and Cemetery Purposes on the Kiowa, Comanche and Apache Reservations, Oklahoma.* Memorandum to the Commissioner of Indian Affairs, Aug. 12, 1957.

———. *Status of title to lands reserved for school and agency purposes on the former Kiowa, Comanche, and Apache Indian Reservations, Western Oklahoma.* Memorandum to Commissioner of Indian Affairs, Jan. 15, 1960 (M–36510).

———. *Yankton Sioux School Lands.* (Nathan R. Margold). Mar. 1, 1934 (Memorandum M. 27671).

U.S. Department of the Interior, Office of the Solicitor, Division of Public Lands. *Effects of Act—March 11, 1948—Within Boundaries of Uintah and Ouray Indian Reservation.* Memorandum to Commissioner, Bureau of Indian Affairs. June 9, 1961 (D–59–1140.9).

U.S. National Advisory Committee on Education. *Federal relations to Education, parts 1 and 2.* Washington, D.C. 1930.

U.S. Office of the Vice President, National Council on Indian Opportunity. *Between Two Milestones: The First Report to the President of the United States.* (Unpublished) Washington, 1972.

United Tribes of North Dakota Development Corporation. *A Proposal for the Development of American Indian Curricula.* May, 1971. 22 pp.

Washington, Superintendent of Public Instruction. *1975 Annual Report Washington State Johnson O'Malley Education Programs for Indian Children.* Olympia, Wash. 1975.

———. *Pre-College Indian Youth Conference: What 23 Youths Think About Their High Schools.* Olympia, Wash. 1968.

Winer, Lillian Rosenbaum. *Federal Legislation of Indian Education, 1819–1970.* Unpublished thesis, Univ. of Maryland, College Park, 1972.

FUNDING

National Association for the Advancement of Colored Peoples, Legal Defense and Education Fund. *An Even Chance: A Report on Federal Funds for Indian Children in Pueblo School Districts.* 1971.

Smith, Susan and Margaret Walker. *Federal Funding of Indian Education: A Bureaucratic Enigma.* Washington, Bureau of Social Science Research, May, 1973. 142 pp.

U.S. Department of Health, Education, and Welfare, National Institute of Education. *R & D. Funding Policies of the National Institute of Education: Review and Recommendations.* Washington, Aug. 1975. 109 pp.

U.S. Department of Health, Education, and Welfare, Office of Education, Office of Indian Education. *The Indian Education Act of 1972: Report of Progress for the Second Year of the Program.* Washington, Apr. 14, 1975.

———. *Justifications of Appropriation Estimates for Committee on Appropriations Fiscal Year 1977: Indian Education.* Washington, 1976.

SPECIFIC SCHOOLS

American Indian Higher Education Consortium. *Public Law 93-638 Indian Community College Survey Supplemental Data Summary.* Denver, 1976.

Arizona, Department of Education. *A Study of Selected Public Schools On and Off Indian Reservations in Arizona.* Phoenix, 1976. 89 pp.

Belding, Nanceye, Richard G. Woods and Arthur M. Harkins. *Evaluation Report of the 1968–1969 University of Minnesota Cultural Education Specialists and Associate Program: Indian American and Afro-American Aspects.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, June 1969.

Blackburn, Guy. "Rough Rock Demonstration School: A View from Within." *Arizona Teacher* (Jan. 1972) 5–23.

Erickson, Donald. "Failure in Navajo Schooling." *Parents Magazine* (Sept. 1970) : 66–113.

Godner, James, Richard G. Woods and Arthur M. Harkins. *Characteristics and Attitudes of 1968 Haskell Institute Students.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, July, 1970.

———. *Language and Related Characteristics of 1968 Haskell Institute Students.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, July, 1970.

Harkins, Arthur and Richard Woods. *Problems of Cross-Cultural Educational Research and Evaluation: The Rough Rock Demonstration School.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, Dec. 1969. 22 pp.

Harkins, Arthur, I. Karon Sherarts and Richard G. Woods. *Public Education of the Prairie Island Sioux: An Interim Report.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, Dec. 1969. 72 pp.

Navajo Tribe, Division of Education. *Developing a Comprehensive Plan for Navajo Education: Seminar I.* Compiled by Lyle O. Wright and G. Mark Schoepfle. Window Rock, Ariz. 1975.

———. *NCEP (Navajo Comprehensive Education Plan)*. Window Rock, Ariz. Feb. 16, 1976. 72 pp.

———. *Navajo Community Educational Hearings Transcripts*. Vols. 2–7. Window Rock, Ariz. Feb. 1976.

Nevada, Department of Education. *Stewart Indian School, Report of the Visiting Committee, Nov. 1974*. Carson City, Nev.

New York, Education Department, Office of Cultural Education. *Akwesasne Mohawk*. 2 Vols. (language textbooks). Prepared by Title IV Program, Salmon River Central School. Albany.

O'Brien, Charles A. *The Evaluation of Haskell Indian Junior College, 1884–1974*. Unpublished thesis, Master of Liberal Studies, Univ. of Oklahoma, Norman, 1975. 95 pp.

Sandstrom, Roy H., ed. *Clash of Cultures, A Report on the Institute on American Indian Students in Higher Education, St. Lawrence Univ. July 10–28, 1972*. Canton, N.Y., St. Lawrence Univ., 1972.

Sherarts, I. Karon, Arthur M. Harkins, Richard Woods and Karen Nordby. *The Formal Education of Menominee Children at the High School Level: Teachers*. Minneapolis, Training Center for Community Programs, Univ. of Minnesota, July, 1972.

U.S. Department of Health, Education, and Welfare, Office of Education. *Proceedings: Indian Education Training Institute, Pacific Northwest Indian Center, Gonzaga University, Spokane, Washington, August 5–8, 1971*. Washington, D.C., 1971.

U.S. Department of the Interior, Bureau of Indian Affairs. *All Indian Study Commission Report, Intermountain School, Brigham City, Utah*. (Research and Evaluation Report Series No. 24.01). Albuquerque, Sept. 1974.

———. *Curriculum Guide 1975–1976, Sherman Indian High School*. Riverside, Calif. 1975.

———. *Evaluation Report, Miccosukee Indian School, Miccosukee, Florida, June 4–5, 1975*. Prepared by Cy May, Stephen M. Fain and Eugene Leitka. (Research and Evaluation Report Series No. 06–B). Albuquerque, 1975.

———. *Evaluation Report of Career Education and Safety Education Choctaw Agency School System, Philadelphia, Mississippi*. (Research and Evaluation Report Series No. 23–B) Albuquerque, May, 1975. 58 pp.

———. *Evaluation Report of the Special Scholarship in Law for American Indians, University of New Mexico School of Law*. Prepared by George W. Underwood and James R. Pierce. (Research and Evaluation Report No. 12). Albuquerque, Summer, 1972.

———. *An Evaluation Report: The Pierre Indian School Final Report on Objective No. 1: Evaluation of the 1972–73 School Program.* (Research and Evaluation Report Series No. 22). Albuquerque, Dec., 1973.

———. *Flandreau Indian School Education Plan.* Flandreau, S. Dak., 1973.

———. *Ft. Sill ORBS Survey.* (Research and Evaluation Report Series No. 19) Albuquerque, July, 1973.

———. *"Friends" for the Indians: 100 Years of Education at Riverside Indian School.* Anadarko, Okla., 1971.

———. *The Haskell Transition Evaluation: Haskel Indian Junior College, Lawrence, Kans., Sept. 28, 1972.* (Research and Evaluation Report No. 7) Albuquerque, Oct., 1972.

———. *Intermountain Boarding School: Information Update.* (Research and Evaluation Report Series No. 24.02) Albuquerque, 1975.

———. *Intermountain Evaluation Task Force, A Report.* (Research and Evaluation Report Series No. 24.00) Albuquerque, June 1, 1973.

———. *Navajo Education Survey.* Prepared by Comprenetics. (B.I.A. Navajo Division of Education Contract No. NOOC 1420 6279) Window Rock, Ariz., June, 1975.

———. *Rough Rock School Evaluation.* (Research and Evaluation Report Series No. 03.10) Albuquerque, Spring, 1974. 89 pp.

———. *San Juan Day School Evaluation.* Research and Evaluation Report Series. No. 27) Albuquerque, 1974. 74 pp.

———. *Student Rights and Responsibilities: A Law Focused Curriculum for American Indian High School Students.* Prepared by Frederick Wilson. (Curriculum Bulletin No. 18.01) Albuquerque, Nov., 1975.

———. *Wahpeton Indian School, Project MESA.* Brigham City, Utah, 1972. 32 pp.

———. *The Institute of American Indian Arts Background Information.* Prepared by John W. Tippeconnic, Jr. . buquerque, Oct. 4, 1972.

———. Institute of American Indian Arts. *Future Directions in Native American Art.* Washington, U.S. Govt. Print. Off., 1974.

———. Management Review Team. *Management Review Survey: Flandreau Indian School, November 10–13, 1975.* Washington, Dec. 19, 1975. 75 pp.

93-440—78——6

U.S. Office of Economic Opportunity. *Community School at Rough Rock.* Prepared by Donald A. Erickson and Henrietta Schwartz. (Contract No. B89–4534. Available through the U.S. Department of Commerce, Clearinghouse for Federal Scientific and Technical Information, Springfield, Va.) Washington, Apr. 1969.

White, Emily and Ann Lewis. *Akwesasne Iewennanotakwa.* N.Y., Salmon River Central School, 1973.

Wolcott, Harry. *A Kwakiutl Village and School, Studies in Education and Culture Series.* New York, Holt, Rinehart and Winston, 1967.

Woods, Richard and Arthur M. Harkins. *Education-Related Preferences and Characteristics of College-Aspiring Urban Indian Teenagers: A Preliminary Report.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, May, 1969.

EMPLOYMENT

California Department of Industrial Relations, Division of Labor Statistics and Research. *American Indians in California.* San Francisco, 1965.

Hobbins, Lynn A. "Navajo Participation in Labor Unions." *Lake Powell Research Project Bulletin,* No. 15 (Dec., 1975). (National Science Foundation).

Taylor, Benjamin J. and Dennis O'Connor. *Fort Apache Reservation Manpower Resources.* Tempe, Bureau of Business and Economic Research, Arizona State Univ. 1969.

Thurow, Lester. "Not Making It In America: The Economic Progress of Minority Groups." *Social Policy,* Vol. 6 (Mar.–Apr., 1976): 5–11.

U.S. Commission on Civil Rights, Arizona Advisory Committee. *Indian Employment in Arizona.* Washington, Feb., 1975.

U.S. Commission on Civil Rights, Montana Advisory Committee. *Employment Practices in Montana: The Effects on American Indians and Women.* Washington, Aug. 1974.

U.S. Commission on Civil Rights, New Mexico Advisory Committee. *Indian Employment in New Mexico State Government.* Washington, Aug., 1975.

U.S. Department of Labor, Manpower Administration. *Index to Publications of the Manpower Administration, January 1970 through June 1975.* Washington, 1975.

———. *National Indian Manpower Conference, December 1971.* Washington, 1971.

———. *Manpower Programs in Rural Areas.* Washington, Jan., 1973.

U.S. Departments of Labor and Health, Education, and Welfare. *Manpower Report to the President.* Washington, Apr., 1974.

U.S. Department of the Interior, Bureau of Indian Affairs. *Division of Employment Assistance Annual Statistical Summary 1971.* Washington, 1971.

———. *Employment Assistance: Future of Navajo Labor Force Annual Report 1975.* Window Rock, Ariz. 1975.

U.S. Department of the Interior, Office of Audit and Investigation. *Review of Adult Vocational Training and Direct Employment Assistance Programs, Bureau of Indian Affairs.* Washington, 1976.

ENVIRONMENT

Commoner, Barry. *The Closing Circle: Nature, Man, and Technology.* New York, Alfred Knopf, 1971.

Fleetwood, Blake. "The Tribe That Taught Cat Dancing." *New Times,* Vol. 5 (Oct. 31, 1975) : 37–41.

Gordon, Suzanne, *Black Mesa, Angel of Death.* New York, John Day, 1973.

Kemper, Will. *Environmental Protection of Indian Lands and Application of N.E.P.A.* (Paper 8) Rocky Mountain Mineral Law Foundation, 1976.

Kneese, Allen and Charles L. Schultz. *Pollution, Prices, and Public Policy.* Washington, D.C. The Brookings Institute, 1975.

Stacks, John. *Stripping: The Surface Mining of America.* San Francisco, Sierra Club, 1972.

U.S. Department of the Interior. *Southwest Energy Study: An Evaluation of Electric Power Generation in the Southwest.* Washington, 1972.

Westinghouse Corp. *Four Corners Regional Development Study Program: A Study of Development Guidelines Including the Analysis of Economic Potential and the Concept of a New Town for the Four Corners Region.* June, 1969.

FEDERAL ADMINISTRATION

Collier, John. "United States Indian Administration as a Laboratory of Ethnic Relations." *Social Research,* Vol. 12 (1945) : 265.

Danziger, Edmund, *Indians and Bureaucrats.* Urbana, Univ. of Illinois Press, 1974.

Gaillard, Frye. "The Indians and the Bureaucrats." *The Progressive* (1973).

Landis, James. *The Administrative Process.* New Haven, Conn., Yale Univ. Press, 1928.

Sorkin, Alan L. *American Indians and Federal Aid.* Washington, D.C. The Brookings Institute, 1971.

U.S. Department of the Treasury, Office of Revenue Sharing. *Native American Governments and the General Revenue Sharing Program.* Washington, April, 1975.

———. *Indian Tribes and Alaskan Native Villages Entitlements, Entitlement Period 6.* Washington, May 23, 1975.

U.S. Library of Congress, Legislative Reference Service. *Extension of Federal Indian Programs to Other Indians.* Prepared by Stephen A. Langone, Washington, May, 1970.

U.S. Library of Congress, Congressional Research Service. *Executive Reorganization: A Historic Review.* Prepared by Ronald C. Moe. Washington, Jan. 6, 1977.

U.S. Library of Congress, Congressional Research Service. *Federal Programs of Assistance to American Indians.* Prepared by Richard Jones. Washington, Apr., 1975.

U.S. Office of the Vice-President, National Council on Indian Opportunity. *A Study of Federal Indian Domestic Assistance Programs.* Washington, Feb., 1974.

Warren King and Assoc. *Government, Education, and Welfare Task Force Programs, Case Study Report.* Chicago, 1971.

FOOD AND NUTRITION

Calloway, D. H. and W. Chenoweth. "Utilization of Nutrients in Milk and Wheat Based Diets by Men With Adequate and Reduced Abilities to Absorb Lactose." American Journal of Clinical Nutrition, Vol. 26 (Sept., 1973).

"More Than Tea and Toast." *The Crusader* (Winter-Spring, 1973). (New York, Food Research and Action Center).

U.S. Department of Agriculture, Food and Nutrition Service. *Donated Foods Distributed by Outlet, Quantity and Cost.* Washington, Aug. 22, 1973.

———. *Family Distribution Program: Quantity and Estimated Cost of Food Recommended for Distribution.* Washington, Oct. 1, 1973.

U.S. Department of Health, Education, and Welfare. *Nutrition, Growth and Development of North American Children.* Prepared by William M. Moore, Marjorie Silverberg, and Merrill Read. (DHEW Publication No. 72-26 NIH.) Washington.

U.S. Department of Health, Education, and Welfare, Interdepartmental Committee on Nutrition for National Defense and Division of Indian Health. *Blackfeet Indian Reservation: Nutrition Survey August–September 1961.* Washington, 1964.

U.S. Library of Congress, Congressional Research Service. *Background on the Termination of the Food (Commodity) Distribution Program for Needy Families and Individuals.* Washington, Nov. 30, 1973.

———. *Ratified American Indian Treaties That Include Payments in Food.* Prepared by Stephen Langone. Washington, Dec. 14, 1973.

U.S. Office of Economic Opportunity, Emergency Food and Medical Services. *The Ages of Hunger . . . From Pre-Natal to Elderly: A Report on the Operation of Federal Food Programs.* Prepared by Food for All, Inc. Washington, D.C., June, 1972.

White House Conference on Food, Nutrition, and Health. *Final Report.* Washington, U.S. Govt. Print. Off., 1970.

HEALTH

Aberdeen Indian Health Service. *Suicide and Suicide Gestures.* Aberdeen, S. Dak., July, 1972.

Adair, John and Kurt Dueschle. *The People's Health.* New York, Appleton-Century, Crofts, 1950.

———. "Some Problems of the Physician at the Navajo Reservation." *Human Organization*, Vol. 16 (1958) : 19–23.

Alaska Native Health Board. *Evaluation of Medical Care Provided to Alaskan Natives.* Anchorage, Alaska Native Health Board, 1976.

American Medical Association, Committee on Health Care of the Poor, Committee on Government Services. *Health Care of the American Indian.* Chicago, American Medical Association, Dec., 1973.

American Public Health Association. Governing Council. *Education in the School Community Setting.* A position paper, New Orleans, Apr., 1975.

Attreave, C. L. and M. Beisre. *Service Networks and Patterns of Utilization, Mental Health Programs, Overview and Recommendations; Eight parts: Aberdeen, Albuquerque, Anchorage, Billings,*

Navajo, Oklahoma, Phoenix, and Portland. (IHS Contract No. HSM 110-73-342).

Association on American Indian Affairs (AAIA). *Federal Policy and American Indian Health Needs; Report of the Sixth National Conference on Indian Health.* New York, AAIA, 1974.

Barrow, Mark V. *Health and Disease of American Indians North of Mexico.* Gainesville, Univ. of Florida Press, 1972.

Basso, K. H. *Heavy With Hatred: An Ethnographic Study of Western Apache Witchcraft.* Thesis, Department of Anthropology, Stanford Univ., Palo Alto, Calif., 1967: 172 pp.

Bergman, Robert L. "A School for Medicine Men." *American Journal of Psychiatry,* Vol. 130 (1973): 663–666.

Bittker, Thomas E. "Dilemmas of Mental Health Service Delivery to Off-Reservation Indians." *Anthropological Quarterly,* Vol. 46, No. 3 (July, 1973).

Braasch, E. W. F. and B. J. Branton. "Survey of Medical Care Among the Upper Midwest Indians." *Journal of the AMA,* Vol. 139, No. 4 (Jan. 22, 1949): 220–226.

Burkhalter, Barton R. "The Papagos 3-Level Model of Political Process and Health Improvement, A Culture-Specific Intervention Which Reduced Infant Gastroenteritis." *Modeling and Simulation,* Vol. 5, Pt. 1. Proceedings of the Fifth Annual Pittsburgh Conference, Apr. 24–26, 1974.

Castaneda, Carlos. *The Teachings of Don Juan: A Yaqui Way of Knowledge.* New York, Simon and Schuster, 1974.

Chorba, Ronald W. and J. L. Sanders. "Planning Models for Tuberculosis Control Programs." *Health Services Research,* Summer, 1971: 144–164.

Devereaux, George. *Mohave Ethnopsychiatry: The Psychic Disturbances of an Indian Tribe.* (Bureau of American Ethnology Bulletin, No. 175, 1961). (Report.) Washington, D.C., Smithsonian Institution Press, 1969. 586 pp.

Fields, Suzanne. "Folk Healing for the Wounded Spirit." *Innovations,* Vol. 3, No. 1 (Winter, 1976): 2–24.

Fortune, Robert. "Health Care and the Alaska Native: Some Historical Perspectives." *Polar Notes,* No. XIV (1975): 1–42.

Hallowell, Irving A. "Values, Acculturation and Mental Health." *American Journal of Orthopsychiatry* (1950): 732–743.

Helper, Malcolm M. and Sol L. Garfield. "Use of the Semantic Differential to Study Acculturation in American Indian Adolescents." *Journal of Personality and Social Psychology*, Vol. 2, No. 6 (1965): 817–822.

Hill, Charles A., Jr. "Measures of Longevity of American Indians." *Public Health Reports*, Vol. 85, No. 3 (Mar., 1970): 233–239.

Hill, Charles A. and Mozart I. Spector. "Natality and Mortality of American Indians Compared with U.S. Whites and Nonwhites." *HSMHA Health Reports*, Vol. 86, No. 3 (Mar., 1971): 229–246. (Health Services and Mental Health Admin., Dept. of HEW).

Hoopa Valley Business Council. *Medical Clinic Proposal: Hoopa Valley Indian Reservation.* Hoopa, Calif., Hoopa Valley Tribes, 1973.

Hoyt, Elizabeth E., "Young Indians: Some Problems and Issues of Mental Hygiene." *Mental Hygiene* (1962): 41–47.

"Indian Medicine Men Hinder M.D.'s" *U.S. Medicine* (June 15, 1976).

Kane, Robert L. and Rosalie A. *Federal Health Care (with Reservations)*. New York, Springer Publishing Co., Inc.

Kemberling, Sidney. "The Indian Health Service: Commentary on a Commentary." *Pediatrics*, Vol. 51 (June, 1973): 1066–1067.

Levy, Jerrold. "Navajo Suicide." *Human Organization*, Vol. 24, No. 4 (Winter, 1965): 308–318.

Mackey, John and Evelyn Blanchard. *Ethnic Differences Influencing the Delivery of Rehabilitation Services: The American Indian.* Washington, D.C., National Rehabilitation Assoc., 1971.

Marsden, Gillian. *National Health Insurance and Community Health Centers: An Analysis of Implications for the Seattle Indian Health Board.* Seattle, School of Public Health and Community Medicine, Univ. of Washington, June, 1975.

Michigan, Office of the Governor, State Health Planning Advisory Council and the Office of Health and Medical Affairs. *Meeting the Health Needs of Migrants and American Indians.* Lansing, June, 1975.

Moorman, Lewis J. "Health of the Navajo-Hopi Indians." *Journal of the AMA.* Vol. 139, No. 6 (Feb. 5, 1949): 370–376.

Mortimer, Edward. "Indian Health: An Unmet Problem." *Pediatrics*, Vol. 51 (June, 1973): 1065–1066.

Navajo Health Authority, Division of Planning, Evaluation, and Development. *Health Resources Directory, Navajo Nation.* Window Rock, Ariz., Aug. 15, 1973.

Nutting, Paul A., Charles R. Strotz, Gregory I. Schorr, and Lawrence E. Berg. "Reduction of Gastroenteritis Morbidity in High-Risk Infants." *Pediatrics*, Vol. 55, No. 3 (Mar., 1975).

Oetting, Eugene R. and Norman G. Dinges. *Evaluation Summary Model Dormitory Project.* (Indian Health Service Contract No. HSM 74–70–112). Rocky Mountain Behavioral Science Institute, Inc., July 1, 1973.

Ogden, Michael, Mozart I. Spector, and Charles A. Hill. "Suicides and Homicides Among Indians." *Public Health Reports*, Vol. 85 (1970) : 75–80.

Parran, Dr. Thomas, et al. *Alaska's Health: A Survey Report to the United States Department of the Interior.* Pittsburgh, Univ. of Pittsburgh Graduate School of Public Health, 1954.

Rabeau, E. S. and Charles J. Erickson. "Health Care Problems of the American Indians." *ISA Transactions*, Vol. 13, No. 4 (1974) : 319–325.

Rabin, David, et al. *Health Problems and Disease of the U.S. and North American Populations.* New York, MSS Information Corp., 1972.

Reese, Kenneth M. "Obstacles to the Psychological Development of American Indian Children." *Family Law Quarterly*, Vol. 9 (Winter, 1975) : 573–593.

Rubenstein, A., J. Boyle, C. L. Odoroff, and S. J. Kunitz. "Effect of Improved Sanitary Facilities on Infant Diarrhea in a Hopi Village." *Public Health Reports*, Vol. 84, No. 12 (Dec., 1969) : 1093–1097.

Seattle Indian Health Board. *Annual Report, 1974.* Seattle, 1974. 27 pp.

Shore, James H., John F. Bopp, Thelma R. Walker, and James W. Dawes. *Suicide Prevention Center on an Indian Reservation.* Portland, Oreg., Portland Area Indian Health Service, 1969.

Shorr, Gregory T. and Paul A. Nutting. *An Evaluation of the Continuity of Ambulatory Care.* Tucson, Indian Health Service, Sept. 1974.

Smith, David A. "American Indian Health Care—Goal for All?" *Pennsylvania Medicine*, Vol. 79, No. 1 (Jan., 1975) : 35.

Steinfeld, Jesse R. "Government Versus Health; 1974." *Annals of Internal Medicine*, Vol. 81, No. 4 (Oct., 1974) : 541–544.

Stern, Ester W. and Allen E. Stearn. *Effects of Smallpox on the Destiny of the Amerindian.* Deer Park, N.Y., Brown Book Co., 1970.

Townsley, H. C. and George S. Goldstein. *The View of the Etiology of Depression in the American Indian.* Albuquerque, U.S. Public Health Service.

Tuberculosis Vaccines Clinical Trials Committee. "BDG and vole bacillus vaccines in the prevention of tuberculosis in adolescence and early adult life." *Bulletin of World Health Organizations*, Vol. 46 (1972) : 371–385.

U.S. Department of Health, Education, and Welfare. *Indian Health Trends and Services.* Washington, 1970 ed. 100 pp.

———. *Evaluation of the DHEW Health Manpower Training Programs Relative to Indians.* Washington, Feb., 1972. 300 pp.

———. *The Health Manpower Report: An Evaluative Study of Department of Health, Education, and Welfare Services to Ethnic Minorities.* Prepared by Urban Assoc., Inc., Washington, July, 1973.

U.S. Department of Health, Education, and Welfare, Division of Indian Health. *Mental Health Activities in the Indian Health Program.* Washington, 1967.

U.S. Department of Health Education, and Welfare, Indian Health Service. *Foundations That Provide Support in Human Services: A Selected List for Indian Communities.* Prepared by Phoenix Area IHS Mental Health Board and Office of Research and Development, IHS, Tucson. Washington, Apr., 1973.

———. *Health Resources Supplement for Research, Development, Health Services: A Source Book for American Indians, Alaska Natives, Indian Health Service Staff.* Washington, Nov. 1, 1970. 93 pp.

———. *Illness Among Indians 1965–1969.* (DHEW Publication No. HSM 72–507) Washington, U.S. Govt. Print. Off., 1971.

U.S. Department of Health, Education, and Welfare, Indian Health Service, Dental Services Branch. *Dental Program Efficiency Criteria and Standards for the Indian Health Service.* Washington, Nov. 1, 1974.

U.S. Department of Health, Education, and Welfare, Indian Health Service, Human Resources Development Branch. *New Careers in the Indian Health Program.* (DHEW Publication No. HSM 73–12.001), Washington, 1972.

U.S. Department of Health, Education, and Welfare, Indian Health Service, National American Indian Safety Council. *Final Project Report "Evaluation of Factors Contributing to Excessive Accident Rates Among American Indians."* (Contract HSA 74–74–132). Washington, Aug. 31, 1975.

U.S. Department of Health, Education, and Welfare, Indiar Health Service, National Community Health Representatives Educational Conference. *Seven States Indian Health Association Educational Conference Planning Committee.* (IHS Contract No. 241–76–0422). Washington, 1976.

U.S. Department of Health, Education, and Welfare, Indian Health Service, Office of Research and Development. *Process and Outcome Measurer of Tribal Health Workers in Direct Patient Care.* Tucson, Oct., 1974.

U.S. Department of Health, Education, and Welfare, Indian Health Service, Sensory Disabilities Program. *Otitis Media Report: Fiscal Year 1975.* Washington, Apr., 1976.

U.S. Department of Health, Education, and Welfare, National Institute of Mental Health. *Suicide Among the American Indians: Two Workshops.* (Public Health Service Publication No. 1903) Washington, June, 1969.

U.S. Department of the Interior, Bureau of Indian Affairs. *Safety Progress Reports, 1973.* Washington, 1973.

U.S. National Aeronautics and Space Administration. *Space Technology in Remote Health Care.* Report on STARPAHC (Space Technology Applied to Rural Papago Advanced Health Care). Houston, Aug., 1974.

Walker, Frances. "Bridging a Gap for Better Patient Care." *Military Medicine* (Jan., 1974) : 26.

HEALTH, EDUCATION, AND WELFARE, U.S. DEPARTMENT OF

Indian Health Service

Barnett, Harry, Jack Fields, George Milles, Joseph Silverstein, and Arthur Berstein. "Medical Conditions in Alaska." *Journal of AMA*, Vol. 135 (Oct. 25, 1947) : 500–510.

Hosteller, C. L. and J. D. Felsen. "Multiple Variable Motivators Involved in the Recruitment of Phvsicians for the Indian Health Service." *Public Health Reports*, Vol. 90 (July–Aug., 1975) : 319–324.

Norton Sound Health Corporation. *Village Health Services.* Nome, Alaska, May, 1976.

U.S. Department of Health, Education, and Welfare. *Evaluation of the DHEW Health Manpower Training Programs Relative to Indians.* Washington, Feb., 1972. 300 pp.

———. *Health Services for American Indians.* Washington, 1957. 350 pp.

———. *To the First Americans, the 4th Annual Report on the Indian Health Program of the U.S. Public Health Service.* (rev. ed.) Washington, 1975.

U.S. Department of Health, Education, and Welfare, Indian Health Service. *Aberdeen Area Indian Health Service Un-Met Needs.* Aberdeen, S. Dak., Apr., 1976.

———. *Alaska Area Native Health Service Operating Plan Fiscal Year 1976.* Anchorage, 1975.

———. *Alaska Native Medical Center and Anchorage Service Unit Operating Plan Fical Year 1974.* Anchorage, 1973.

———. *Annual Report Fiscal Year 1971, Nursing Services Branch.* Washington, 1971.

———. *Barrow Service Unit Operating Plan Fiscal Year 1974.* Anchorage, 1974.

———. *Bethel Service Unit Operating Plan Fiscal Year 1974.* Anchorage, 1973.

———. *Community Health Representative, A Changing Philosophy of Indian Involvement.* Washington, Feb., 1970.

———. *An Evaluation of Local Indian Health Board Involvement in the Management of Indian Health Service Delivery System, A Final Report of the Phase II Evaluation Project of the National Indian Health Board.* Washington, Aug. 7, 1975.

———. *Kotzebue Service Unit Operating Plan Fiscal Year 1975.* Anchorage, 1974.

———. *Mt. Edgecumbe Service Unit Operating Plan Fiscal Year 1975.* Anchorage, 1974.

———. *Self-Determination IHS Contracts Public Law 93-638, 1975.* Washington, 1975.

———. *Service Networks and Patterns of Utilization: Mental Health Programs of the Indian Health Service.* Prepared by C. L. Attneave and M. Beiser. (IHS Contract No. IHS HSM 110-73-342). Washington, 1973.

———. *Service Unit Profiles, Fiscal Years 1975-1976. Blackfeet, Crow, Flathead, Fort Belknap, Fort Peck, Northern Cheyenne, Rocky Boy's, and Wind River Service Units.* Billings, Mont., 1974.

———. *Tanana Service Unit Operating Plan Fiscal Year 1975.* Anchorage, 1974.

———. *Task Force Report on the Sanitation Facilities Construction Program Indian Health Service.* Washington, Aug., 1975.

———. Office of Special Concerns. *A Study of the Indian Health Service and Indian Tribal Involvement in Health.* Washington, Aug., 1974.

Whiting, Beatrice Blyth. *Paiute Sorcery.* New York, Viking Fund Publication in Anthropology, No. 15, 1950.

Wilson, Marcia J. and Thomas Luebben. *A Study of the Legality and Rationality of Reservation/Off-Reservation Eligibility Requirement for IHS for Contract Care.* A paper presented to the National Indian Youth Council, 1976.

Wilson, Martha R. *Federal Health Care for Alaska Natives.* Paper presented to the Alaska Native Health Board, July 19, 1972.

Wilson, Martha R. and Charles Brady. *Health Care in Alaska via Satellite.* American Institute of Aeronautics and Astronautics, 1975.

Woods, David. "Yellowknife Symposium, Part I: Changing Health Patterns in the Circumpolar Regions." *Canadian Medical Association Journal*, Vol. III (Sept. 7, 1974); 457–459.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM (NIAAA)

Robinson, Shirley. "Self-Help Programs for Indians and Native Alaskans." *Alcohol Health and Research World* (Summer, 1974): 11–16.

U.S. Department of Health, Education and Welfare, National Institute on Alcohol Abuse and Alcoholism. *Native American Alcoholism Program, Output Reports for the Period Ending June 30, 1975, Report III–B Performance Comparison.* Washington, 1975.

———. *Evaluative Data on NIAAA Alcoholism Treatment Programs for Fiscal Year 1975.* Washington, Oct., 1975.

OFFICE OF EDUCATION (OE)

U.S. Department of Health, Education and Welfare, Office of Indian Education. *The Indian Education Act of 1972, Report of Progress for the Second Year of the Program.* (DHEW Publication No. OE 75–02401) Washington, Apr. 14, 1975.

OFFICE OF NATIVE AMERICAN PROGRAMS (ONAP)

U.S. Department of Health, Education and Welfare, Office of Native American Programs. *Fiscal Year 1976 Research and Evaluation Plan.* Washington, 1975.

———. *Organizational Structure, Major Functions, Position Descriptions, and Accountability Procedures for the Office of Native American Programs.* Washington, 1975.

———. *Report on the In-Depth Evaluations of Fifth Quarter Grantees.* 5 Vols. Prepared by Centaur Management Consultants, Inc. (Contract No. 105–76–6100, ONAP) Washington, 1976.

U.S. Department of Health, Education and Welfare, Office of Native American Programs, Office of Human Development. *Office of Native American Programs Implementation Plan for Title VIII, Community Services Act Public Law 93–644.* Washington, May 12, 1975.

HOUSING

California, Department of Housing and Community Development. *Housing Study of Happy Camp Karok Tribe.* Prepared by Jack R. Sanderson and Gilbert Fernandez. Sacramento, May, 1976.

Housing Assistance Council, Inc. *H.U.D. Information 1974 and 1975.* Washington, Mar. 1974.

———. *Indian Housing Roles: Bureau of Indian Affairs, Indian Health Service.* Washington, July 1, 1975.

Navajo Tribe, Navajo Housing Authority, *Mutual Help Participants' Selection Guideline.* Window Rock, Ariz., Nov., 1973.

U.S. Bureau of the Census. *Census of Housing: 1970.* Vol. 1: Housing Characteristics for States, Cities and Counties. Washington, U.S. Govt. Print. Off., 1972.

U.S. Department of Housing and Urban Development. *Community Development: A Manual on Tribal Housing Enterprises and Resources.* Prepared by the Nonprofit Housing Center, Inc., for HUD and the B.I.A. Washington, 1970.

———. *Housing in the Seventies; A Report of the National Housing Policy Review.* Washington, 1974. 250 pp.

———. *The National Indian Housing Conference, Scottsdale, Ariz., Nov. 14–16, 1974* (HUD–EO–81) Washington, 1974.

U.S. Department of Housing and Urban Development, Office of the General Counsel, *Applicability of the Indian Civil Rights Act and the 14th Amendment to the Occupancy Policies of Indian Housing Authorities.* Memorandum to Robert R. Elliot, Deputy General Counsel, Feb. 15, 1974.

U.S. Department of Housing and Urban Development, Task Force on Indian Programs. *First Report of the Task Force on Indian Programs.* (mimeo) Washington, Nov. 6, 1975.

HUNTING AND FISHING RIGHTS

American Friends Service Committee. *Uncommon Controversy: The Fishing Rights of the Muckleshoot, Puyallup, and Nisqually Indians.* Seattle, Univ. of Washington Press, 1970.

Holte, H. Scott. "*United States* v. *Washington:* A Unique Kettle of Fish." Paper submitted to the Indian Legal Problems Seminar. (Unpublished.) Seattle, Univ. of Washington Law Library, 1974.

Hyde, Frederick W., Jr. *Treaty Hunting and Fishing Rights of the Klamath Indians.* Paper submitted to the Indian Legal Problems Seminar. (Unpublished.) Seattle, Univ. of Washington Law Library, June 5, 1975.

Muskrat, Joe. "Assimilate—or Starve." *Civil Rights Digest* (Oct., 1972) : 27–34.

INDIAN CIVIL RIGHTS ACT

U.S. Laws, Statutes. *Indian Civil Rights Act of 1968.* Approved Apr. 11, 1968, 90th Cong., 2d Sess. (Public Law 90–284, 25 U.S.C. § 1301, 82 Stat. 77).

Ward, David C. *The Scope of the Equal Protection Requirement of the Indian Civil Rights Act.* Paper submitted to the Indian Legal Problems Seminar. Seattle, Univ. of Washington Law Library, June, 1974.

INDIAN ORGANIZATIONS

National Congress of American Indians (NCAI). *American Indian Declaration of Sovereignty.* Paper presented at the Thirty-first Annual Convention. Washington, D.C., NCAI, 1974.

———. *Indian Declaration of Purpose.* Paper presented at a national meeting, June 13–20, 1961, Chicago.

U.S. Office of the Vice President, National Council on Indian Opportunity. *Administrative files, 1968–1974.* Record Group 220, Natural Resources Branch, U.S. National Archives, Washington.

INDIAN REORGANIZATION ACT (IRA)

Berkey, Curtis. *The Indian Reorganization Act of 1934.* Washington, D.C., Institute for the Development of Indian Law, 1976.

Downes, Randolph. "A Crusade for Indian Reform, 1922–1934." *Mississippi Valley Historical Review*, Vol. 32 (Dec. 1945).

Hass, Theodore. *The Indian Reorganization Act in Historical Perspective, Symposium.* 52d Annual Meeting, American Anthropological Assn., Tucson, Ariz., Dec. 30, 1953.

Oklahoma, Laws, Statutes. *Oklahoma Act of June 26, 1936.* Oklahoma Welfare Act with Provisions of Indian Reorganization Act Applicable in Oklahoma.

U.S. Department of the Interior, Bureau of Indian Affairs. *The Development of Collier's I.R.A. Policy, Indian Service Policies; Galleys 1–6.* Located under 75, 56–A–588, 395, 50660–45–120, Federal Archives and Records Service, Fort Worth, Tex.

U.S. Department of the Interior, Office of the Solicitor. The Organization of the Nooksack Indians under the Indian Reorganization Act. Solicitor's Opinion M–36833. Washington.

———. *Powers of Indian Tribes, Opinion, Oct. 25, 1934.* Interior Decisions, Vol. 55, pp. 14–67. Washington.

INDIAN SELF-DETERMINATION ACT

American Indian Higher Education Consortium. *Public Law 93–638 Indian Community College Survey, Supplemental Data Summary.* Denver, Colo., 1975.

Kickingbird, Kirke. "Indian Self-Determination and Education Reform Act of 1973." Education Journal, Vol. 1 (Feb., 1973). (Institute for the Development of Indian Law).

National Congress of American Indians. *N.C.A.I./N.T.C.A. Review and Analysis Project; Public Law 93–638, B.I.A. Regulations.* Letter to all tribes. Washington, D.C., 1975.

U.S. Department of the Interior, Bureau of Indian Affairs. *Handbook for Decision Makers on Title I of the Indian Self-Determination and Education Assistance Act.* Washington, Feb. 10, 1976.

U.S. Laws, Statutes. *Indian Self-Determination and Education Assistance Act.* Approved Jan. 4, 1975, 93d Cong., 2d Sess. (Public Law 93–638, 25 U.S.C. § 450, 88 Stat. 2203).

INDIANS

General

Adair, John. "The Navajo and Pueblo Veteran, A Force for Culture Change." *American Indian*, Vol. IX, No. 1, 1947.

American Baptist Convention, Board of Education. *The Moccasin Trail.* Philadelphia, Boston, Judson Press, 7932. (Microfilmed 1975, Library of Congress, No. 54409).

American Indian Treaty Council Information Center. *Native American Women.* New York, 1975.

Bahr, Howard M. *Native Americans Today.* New York, Harper and Row, 1972.

Berkhofer, Robert F. *Salvation and the Savage.* Lexington, Univ. of Kentucky Press, 1965.

Berthrong, Donald J. *The Southern Cheyennes.* (Civilization of the American Indian Series, No. 66) Norman, Univ. of Oklahoma Press, 1963. 422 pp.

Brill, Charles, *Indian and Free: A Contemporary Picture of Life on a Chippewa Reservation.* Minneapolis, Univ. of Minnesota Press, 1974.

Cohen, Edgar S. *Our Brother's Keeper: The Indian in White America.* Washington, D.C., World Publishing Co., 1969.

Collier, John. *From Every Zenith.* Denver, Sage Books, 1963.

———. *Indians of the Americas: The Long Hope.* New York, New American Library, 1947.

Collier, Peter. *The Theft of a Nation; Apologies to the Cherokees.* Ramparts, 1970.

Colson, Elizabeth. *The Makah Indians: A Study of an Indian Tribe in Modern American Society.* Westport, Conn., Greenwood Press, 1974.

Council of Women for Home Missions and Missionary Education Movement. *Facing the Future in Indian Missions.* New York, 1932.

Deloria, Vine, Jr. *Custer Died for Your Sins: An Indian Manifesto.* New York, Avon Books, 1972.

Denig, Edwin Thompson. *Five Indian Tribes of the Upper Missouri: Sioux, Arickaras, Assiniboines, Crees, Crows.* John C. Ewers, ed. (Civilization of the American Indian Series, No. 59) Norman, Univ. of Oklahoma Press, 1961. 217 pp.

Downes, Randolph Chandler. *Council Fires on the Upper Ohio.* Pittsburgh, 1940.

Driver, Harold E. *Indians of North America.* Chicago, Univ. of Chicago Press, 1961.

Fey, Harold E. and D'Arcy McNickle. *Indians and Other Americans—Two Ways of Life Meet.* New York, Harper and Row, 1959.

Fire, John. *Lame Deer, Seeker of Visions.* New York, Simon and Schuster, 1972.

Garbarino, Merwyn S. *Big Cypress: A Changing Seminole Community.* New York, Holt Rinehart and Winston, 1972.

Giere, Thomas P. *Red Man in Tacoma Area: The Puyallup Indians.* Paper submitted for Indian Legal Problems Seminar, Spring, 1971. Seattle, Univ. of Washington Law Library.

Greenman, Emerson Frank. *The Indians of Michigan.* Lansing Mich. Historical Commission, 1961.

Hanson, Lorie and A. Harkins. *Suburban School Children and American Indians: A Survey of Impressions*. Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

Harkins, Arthur M. and Richard G. Woods. *Attitudes and Characteristics of Selected Wisconsin Indians*. Minneapolis, Training Center for Community Programs, Univ. of Minnesota, July, 1969.

Henderson, E. B. and J. E. Levy. "Survey of Navajo Community Studies, 1936–1974." *Lake Powell Research Project Bulletin*, No. 6 (Mar., 1975) : 145 pp. (National Science Foundation)

Holbert, Victoria L., Arthur M. Harkins, Richard G. Woods and I. Karon Sherarts. *Indian Americans at Mille Lacs*. Minneapolis, Training Center for Community Programs, Univ. of Minnesota, July, 1970.

Hudson, Charles M. *The Catawba Nation*. Univ. of Georgia Press, 1970.

———. *Red, White, and Black. Symposium on Indians in the Old South*. Univ. of Georgia Press, 1972.

Institute for the Development of Indian Law. *Indians and the U.S. Government*. Washington, D.C., 1975.

Jenkins, Myra Ellen. *Pueblo Indians*, 4. New York, Garland Publications, 1974.

Josephy, Alvin M., Jr. "Wounded Knee and All That—What the Indians Want." *The New York Times*, Mar. 18, 1973.

LaFarge, O. "Disintegration and the American Indians." *Annals of the American Academy of Political and Social Science*, 311, (1957).

Leighton, A. H. and D. C. *The Navajo Door*. Cambridge, Mass., Harvard Univ. Press, 1944.

Lurie, Nancy Oestreich. "The will-o-the-wisp of the Indian unity." *Indian Historian*, Vol. 9 (1976) : 19–24.

McBridge, Stewart Dill. "New England Indian Caught Between Two Cultures." *The Christian Science Monitor*, Aug. 19, 1974.

McGraw, James R. "God is Also Red: An Interview with Vine Deloria Jr." *Christianity and Crisis*, Vol. 35 (Sept. 15, 1975) : 198–206.

Malan, Vernon D. *The Dakota Indian Community*. Brookings, Rural Sociology Department, Agricultural Experiment Station, South Dakota State College, 1962.

93-440—78——7

Marken, Jack Walter. *The Indians and Eskimos of North America.* Vermillion, S. Dak., Dakota Press, 1973.

Marx, Herbert, Jr. *The American Indian: A Rising Ethnic Force.* New York, H. W. Wilson Co., 1973.

Meredith, Howard L. *The Native American Factor.* New York, Seabury Press, 1973.

Milling, Chapman James. *Red Carolinians.* Columbia, Univ. of South Carolina Press, 1969.

Mooney, James. *Myths of the Cherokee.* Nashville, C. Elder—Bookseller, 1972.

Parker, Arthur Caswell. *Parker on the Iroquois.* Syracuse, Syracuse Univ. Press, 1968.

Phillips, George Harwood, *Chiefs and Challengers: Indian Resistance and Cooperation in Southern California.* Berkeley, Univ. of California Press, 1975.

Price, John A. *Cultural Divergence Related to Urban Proximity on American Indian Reservations.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1971.

Ritzenthaler, Robert Eugene. "The Oneida Indians of Wisconsin." Milwaukee, *Milwaukee Public Museum Bulletin*, Vol. 19, No. 1 (1950).

Shepardson, Mary. *Navajo Ways in Government: A Study in Political Process.* New York, Kraus Reprint Co., 1963.

Simpson, George E. and J. Milton Yinger. "American Indians and American Life." *Annals of the American Academy of Political and Social Science* (May, 1957).

Sioux Indians. Vols. 1–4. New York, Garland Publications, 1974.

Smith, G. Hubert. *Omaha Indians.* New York, Garland Publications, 1974.

Snake, Reuben A., Jr. *Being Indian Is . . .* Macy, Nebr., Nebraska Indian Press, 1972.

Speck Frank Gouldsmith. *Cherokee Dance and Drama.* Berkeley, Univ. of California Press, 1951.

Standing Bear, Luther. *My People, The Sioux.* Lincoln, Univ. of Nebraska Press, 1975.

Stanley, Sam, Bruce MacLachlan and Myron Rosenberg. "The North American Indians: 1950 Distribution of Descendants of the Aborig-

inal Population of Alaska, Canada and the United States." (map) Chicago, Department of Anthropology, Univ. of Chicago, Dec., 1960.

Starkey, Marion Lena. *The Cherokee Nation.* New York, Russell and Russell, 1972.

Steiner, Stanley. *The New Indians.* New York, Harper and Row, 1967.

Strickland, Rennard. "Friends and Enemies of the American Indian: An Essay Review on Native American Law and Public Policy." *American Indian Law Review*, Vol. 3, No. 2 (1975) : 313–331.

Swanton, John Reed. *The Indians of the Southeastern United States.* Washington, U.S. Govt. Print. Off., 1946. Grosse Pointe, Mich., Scholarly Press, 1969.

Trenholm, Virginia Cole. *The Shoshonis, Sentinels of the Rockies.* (1st ed.) Norman, Univ. of Oklahoma Press, 1964.

Tureen, Thomas N. "Remembering Eastern Indians." *Inequality in Education*, No. 10 (Dec., 1971).

U.S. Commission on Civil Rights. *The Navajo Nation: An American Colony.* Washington, Sept., 1975.

U.S. Department of the Interior, Bureau of Indian Affairs. *Famous Indians: A Collection of Short Biographies.* Washington, 1974.

———. *Indians of Arizona.* (506–389) Washington, 1973.

———. *Indians, Eskimos and Aleuts of Alaska.* (0–315–121) Washington, 1968.

———. *Indians of California.* (0–287–163) Washington, 1968.

———. *Indians of Montana/Wyoming.* (0–287–698) Washington, 1968.

———. *Indians of New Mexico.* (0–315–122) Washington, 1968.

———. *Indians of North Carolina.* (0–472–350) Washington, U.S. Govt. Print. Off., 1972.

———. *Indians of Oklahoma.* (0–496–170) Washington, U.S. Govt. Print. Off., 1973.

———. *Indians of the Central Plains.* (0–291–540) Washington, U.S. Govt. Print. Off., 1968.

———. *Indians of the Dakotas.* (0–289–766) Washington, U.S. Govt. Print. Off., 1968.

———. *Indians of the Great Lakes Area.* (0–311–555) Washington, U.S. Govt. Print. Off., 1968.

———. *Indians of the Gulf States.* (0–311–554) Washington, U.S. Govt. Print. Off., 1968.

———. *Indians of the Lower Plateau.* (0–506–609) Washington, U.S. Govt. Print. Off., 1973.

———. *Indians of the Northwest.* (0–496–560) Washington, U.S. Govt. Print. Off., 1973.

———. *Indians of North Carolina.* Washington, U.S. Govt. Print. Off., 1915. (Library of Congress microfilm No. 53,192).

U.S. Department of the Interior, Bureau of Indian Affairs, Phoenix Area Office. *Information Profiles of Indian Reservations in Arizona, Nevada, and Utah.* Phoenix, 1976.

U.S. Department of the Interior, Delegation of the United States. *Indians of the United States.* 2 Vols. Paper presented by Delegation, First Inter-American Conference on Indian Life, Patzcuaro, Mexico, Apr., 1940.

Walker, Robert Sparks. *Torchlights to the Cherokees.* New York, Macmillan Co., 1931.

Washington, Office of the Governor. *Are You Listening, Neighbor?* Report of the Indian Affairs Task Force. Olympia, Wash., 1971.

Wisconsin, Department of Health and Social Services, Bureau of Health Statistics. *Indians in Wisconsin—Births, Deaths and Population 1968–1972.* Prepared by Ellen M. Noor, Madison, Dec., 1974.

HISTORY

Acuma, Rodolfo F. *Sonoran Strongman Ignacio Pesquiera and His Times.* Tucson, Univ. of Arizona Press, 1974.

Axtell, J. *Through a Glass Darkly: Colonial Attitudes Toward Native Americans.* Bronxville, N.Y., Sarah Lawrence College, Faculty Papers, 1973.

Beatty, Charles. *The Journal of a Two Months Tour.* London, 1768. St. Clair Shores, Mich., Scholarly Press, 1972.

Beatty, Donald R. *History of the Legal Status of the American Indian with Particular Reference to California.* San Francisco, Rand E. Research Assoc., 1974.

Benson, Henry Clark. *Life Among the Choctaw Indians and Sketches of the Southwest.* Cincinnati, L. Swormstedt and A. Poe, 1860. New York, Johnson Reprint Corp., 1970.

Beveridge, Albert Jeremiah. *The Life of John Marshall*, Vols. 1–4. New York, Houghton Mifflin Co., 1916.

Blunt, Joseph. *A Historical Sketch of the Formation of the Confederacy Particularly with Reference to the Provincial Limits and the Jurisdiction of the General Government over Indian Tribes and the Public Territory.* New York, George and Charles Carville, 1826.

Brennen, Jere L. *The Forgotten American—American Indians Remembered.* New York, Council on Social Work Education, 1972.

Campbell, Robert. *Cherokee Indians.* Savannah, Ga., 1829.

Cherokee Historical Assn. *Unto These Hills.* Cherokee, N.C., 1969.

Colden, Cadwallader. *The History of the Five Indian Nations of Canada.* London, T. Osborne, 1747. Toronto, Coles Pub. Co., 1972. New York, Allerton Book Co., 1922. New York, AMS Press, 1973.

Cook, Sherburne Friend. *Colonial Expeditions to the Interior of California Central Valley.* Berkeley, Univ. of California Press, 1960.

———. *The Conflict between the California Indian and White Civilization.* Berkeley, Univ. of California Press, 1976.

Curtis, Edward S. *Portraits from North American Indian Life.* New York, Outerbridge and Lazard, 1972.

Dale, Edward Everett. *Cherokee Cavaliers.* Norman, Univ. of Oklahoma Press, 1939.

Debo, Angie. *And Still the Waters Run; The Betrayal of the Five Civilized Tribes.* Princeton, N.J., Princeton Univ. Press, 1973.

Eastman, Charles A. "The North American Indian." *Universal Races Conference*, London, 1911, No. 1: 367–376.

Eastman, Charles Alexander. *From the Deepwoods to Civilization.* Boston, Little, Brown & Co., 1925.

Eaton, Rachel Caroline. *John Ross and the Cherokee Indians.* Menasha, Wis., George Banta Publishing Co., 1914.

Ells, Myron. *History of Indian Missions on the Pacific Coast.* Philadelphia, New York, American Sunday School Union, 1882. (Library of Congress Microfilm #37942).

Ellison, William Henry. *The Federal Indian Policy in California, 1846–1860.* San Francisco, R. and E. Research Assoc., 1974.

Filler, Louis, *The Removal of the Cherokee Nation.* Boston, Heath, 1962.

Fleischmann, Glen. *Cherokee Removal, 1838.* New York, Watts, 1971.

Foreman, Grant. *Indian Removal; The Emigration of the Five Civilized Tribes of Indians.* Norman, Univ. of Oklahoma Press, 1953.

Friends, Society of, Associated Executive Committee on Indian Affairs. *A Brief Account of Friends' Missionary Work Among the Indians, 1869–1901.* Philadelphia, 1901.

Fritz, Henry. *The Movement for Indian Assimilation: 1860–1890.* Philadelphia, Univ. of Pennsylvania Press, 1963.

Harman, George Dewey, *Sixty Years of Indian Affairs, Political, Economic and Diplomatic, 1789–1850.* Chapel Hill, Univ. of North Carolina Press, 1941.

Heizer, Robert Fleming. *The Destruction of California Indians.* Santa Barbara, Calif., Peregrine Smith, 1974.

Hoopes. Alban W. *Indian Affairs and Their Administration, with Special Reference to the Far West, 1849–1860.* London, H. Milford, Oxford Univ. Press, 1932.

Hyde, George E. *A Sioux Chronicle.* (1st ed.) Norman, Univ. of Oklahoma Press, 1956.

International Congress of Americanists, 29th, New York, 1949. *The Civilizations of Ancient America.* New York, Cooper Square Publishers, 1967.

Jackson, Helen Maria (Fiske) Hurst. *A Century of Dishonor.* Boston, Roberts Brothers, 1888. Reprinted St. Clair Shores, Mich., Scholarly Press, 1972.

Jackson, K. *A Study of Changes of Authority Relations between American Indians and Government.* Doctoral thesis, Univ. of Oregon, Sept., 1971.

Kenner, Charles L. *A History of New Mexican Plains Indian Relations.* Norman, Univ. of Oklahoma Press, 1969.

Kilpatrick, Jack Frederick. *Sequoyah of Earth and Intellect.* Austin, Tex. Encino Press, 1965.

Landon, Fred. *Letters of Reverend James Evans, Methodist Missionary.* Toronto, 1932.

Lumpkin, Wilson, *The Removal of the Cherokee Indian from Georgia, 1827–1841.* New York, A. M. Kelley, 1971.

McCoy, Isaac. *History of Baptist Indian Missions.* New York, Johnson Reprint Corp., 1970.

McLaughlin, James. *My Friend, the Indian.* New York, Houghton Mifflin Co., 1926.

McNickle, D'Arcy. *They Came Here First: The Epic of the American Indian.* New York, Harper and Row, 1975.

Mesplie, Father. "Report of Chaplain Mesplie of Fort Boise." *Army and Navy Journal* (Apr. 6, 1878).

Miles, Nelson A. "The Indian Question." *The North American Review*, Vol. 128, No. 268 (Mar. 1879) : 304–314.

Moody, Marshall, "A History of the Board of Indian Commissioners and Its Relationship to the Administration of Indian Affairs 1869–1900." M.A. thesis, Washington, D.C., American University, 1951.

Morgan, Lewis H. "The Indian Question." *The Nation*, No. 700 (Nov. 28, 1878) : 332–333.

New York (colony). *An Abridgement of the Indian Affairs Contained in Four Folio Volumes.* Cambridge, Mass., Harvard Univ. Press, 1915.

Prescott, William Hickling. *History of the Conquest of Mexico*, Vols. 1–4. New York, AMS Press, 1968.

Prucha, Francis Paul. *American Indian Policy.* Indianapolis, Indiana Historical Society, 1971.

———. *Americanizing the American Indian.* 1973.

———. *Documents of United States Indian Policy.* Lincoln, Univ. of Nebraska Press, 1975.

Quimby, George Irving. *Indian Life in the Upper Great Lakes, 11,000 B.C. to A.D. 1800.* Chicago, Univ. of Chicago Press, 1960.

Rahill, Peter James. *The Catholic Indian Missions and Grant's Peace Policy.* Washington, D.C., Catholic Univ. of America Press. 1953–1954.

Richardson, J. *Messages of the Presidents*, Vols. I–X. Washington, D.C. 1903.

Riggs, A. L. "What Shall We Do with the Indians." *The Nation*, (Oct. 31, 1967) : 356.

Sass, Herbert R. "The Future of the Indian Question." *The North American Review* CLII (Jan., 1891) : 1–10.

Satz, Ronald M. *American Indian Policy in the Jacksonian Era.* Lincoln, Univ. of Nebraska Press, 1974.

Schoolcraft, Henry Rowe. *Historical and Statistical Information Respecting the History, Condition and Prospects of the Indian Tribes of the United States.* Vols. 1–5. Philadelphia, Lippincott, Grambo, 1851–1856. NewYork, reprinted by Paladin Press, 1969.

Schwarge, Edmund. *History of the Moravian Missions Among Southern Indian Tribes of the United States.* Bethlehem, Pa., Times Publishing Co., 1923.

Shea, John Dawson Gilmary. *History of the Catholic Missions Among the Indian Tribes of the United States*, 1529–1854. New York, Arno Press, 1969.

Spicer, Edward Holland. *Cycles of Conquest.* Tucson, Univ. of Arizona Press, 1962.

Taylor, Graham D. "*Anthropologists, Reformers and the Indian New Deal.*" Prologue, Vol. 7 (Fall, 1975) : 151–162.

Thwaites, Reuben J. *The Jesuit Relations and Allied Documents; Travels and Explorations of the Jesuit Missionaries in New France, 1610–1791.* Cleveland, Burrows Bros., 1896–1901.

Trennert, Robert A. *Alternative to Extinction: Federal Indian Policy and the Beginnings of the Reservation System, 1346–1851.* Philadelphia, Temple Univ. Press, 1975.

Tyler, Lyman S. *A History of Indian Policy.* Prepared for U.S. Department of the Interior, Bureau of Indian Affairs. Washington, U.S. Govt. Print. Off., 1973.

———. *Indian Affairs: A Study of the Changes in Policy of the United States Toward Indians.* Institute of American Indian Studies, Brigham Young Univ., 1964.

U.S. Department of the Interior. *Annual Report of the Board of Indian Commissioners (1869–1933).* Washington, U.S. Govt. Print. Off.

U.S. Department of War. *Annual Report of the Secretary of War (1789–1820).* Washington, U.S. Govt. Print. Off.

U.S. Department of War, Office of Indian Affairs. *Annual Report of Indian Affairs (1824–1849).* Washington, D.C., U.S. Govt. Print. Off.

———. *Reports of the Commissioners of Indian Affairs 1835–1870*, 36 Vols. New York, AMS Press, 1970.

Utley, Robert Marshall. *Frontier Regulars; the United States Army and the Indian.* New York, Macmillan Co., 1974.

Vaughan, Alden T. *New England Frontier: Puritans and Indians.* Boston, Little, Brown, 1965.

Viola, Herman J. *Thomas L. McKenney.* Chicago, Sage Books, 1974.

Walter. F. A. "The Indian Question." *The North American Review,* No. 116 (Apr. 1873) : 334–356.

Washburn, Wilcomb E. *The American Indian and the United States.* New York, Random House, 1973.

———. *The Indian and the White Man.* Garden City, N.Y., Anchor Books, 1964.

———. *Red Man's Land/White Man's Law.* New York, Scribner, 1971.

Welsh. "The Meaning of the Dakota Outbreak." *Scribner's Magazine,* No. 4 (Apr., 1891) : 429–452.

White, Eugene E. *Service on the Indian Reservations.* Little Rock, Ark., Democrat Co., 1893.

Wilkins, Thurman. *Cherokee Tragedy.* New York, Macmillan Co., 1970.

Wissler, Clark. *Red Man Reservations.* New York, Collier Books, 1971.

Young, Mary Elizabeth. *Redskins, Ruffleshirts and Rednecks.* Norman, Univ. of Oklahoma Press, 1961.

OUTSIDE OF THE UNITED STATES

Canadian Association in Support of the Native Peoples. "Aboriginal Rights." *Bulletin,* Vol. 17 (Dec., 1976). Issue devoted to aboriginal rights.

Indigena and American Friends of Brazil. *Supysava, a Documentary Report on the Conditions of Indian Peoples in Brazil.* Berkeley, Indigena, Inc. and the American Friends of Brazil, 1974.

Marroquin, Alejandro. *Balance del Indigenismo.* Mexico City, Inter-American Indian Institute, 1972.

Stavenhagen, Rodolgo. *Agrarian Problems and Peasant Movements in Latin America.* Garden City, N.Y., Anchor Books, 1970.

U. S. Department of the Interior, Office of Indian Affairs. *Final Act of the First Inter-American Conference on Indian Life, held at Patzcuaro, State of Michoacan, Mexico.* April 14–24, 1940. Washington, 1940.

INTERIOR, U.S. DEPARTMENT OF

U.S. Department of the Interior. *Annual Report of the Secretary of the Interior.* 1849 to date. Washington, U.S.. Govt. Print. Off.

U.S. Department of the Interior, Office of Survey and Review. *Audit Operations Review of Welfare, Guidance and Relocation Activities.* Washington, Apr., 1970.

Arizona, Department of Education, Division of Indian Education. *State of Arizona 1975–1976 Arizona Johnson-O'Malley State Educational Plan.* Phoenix, 1975.

"J.O.M. Rip-Off in Oklahoma." *Educational Journal*, Vol. 2 (Aug., 1973). (Institute for the Development of Indian Law, Washington D.C.)

Michigan, State Board of Education. *Annual Report for the State of Michigan Johnson-O'Malley Funds 1972–1973.* Lansing, 1973.

U.S. Department of the Interior, Bureau of Indian Affairs, Indian Education Resources Center. *Assistance to Indians Enrolled in Public Schools: Johnson-O'Malley Regulations: A Progress Report.* (Research and Evaluation Report Series No. 15–A.) Albuquerque, July, 1974.

———. *Johnson-O'Malley Annual Report Fiscal Year 1972.* Albuquerque, May, 1975.

U.S. Department of the Interior, Office of Audit and Investigation. *Audit of Bureau of Indian Affairs Johnson-O'Malley Contract No. EOOC 14200819 with State of Alaska Department of Education for Education of Native Children Juneau, Alaska Period July 1972 through June 30, 1973.* Sacramento, May, 1974.

———. *Audit of Bureau of Indian Affairs Johnson-O'Malley Contract with the United Tribes of North Dakota Development Corporation for the Education of Indian Children in North Dakota Public Schools Period July 1, 1971 through June 30, 1973.* Denver, Aug., 1974.

———. *Evaluation of Contract Proposal for Contract No. 142005–004005 Awarded by the Bureau of Indian Affairs to the State of Idaho Department of Education for Johnson-O'Malley Education Program for Fiscal Year 1974.* Sacramento, Feb., 1974.

U.S. Department of the Interior, Office of Survey and Review. *Audit of Bureau of Indian Affairs Contracts with Gallup-McKinley County Schools and Albuquerque Public Schools for the Education of Navajo Students Residing in Federal Dormitories Period July 1, 1969 through June 30, 1971 with a Partial Audit of Fiscal Year 1972.* Denver, 1972.

———. *Audit of Bureau of Indian Affairs Contracts with the State of New Mexico for the Education of Indian Children in New Mexico Public Schools for the Period July 1, 1969 through June 30, 1971 with a partial Audit of Fiscal Year 1972.* Lakewood, Colo., Jan., 1973.

———. *Audit of Bureau of Indian Affairs Johnson-O'Malley Contracts with the United Sioux Tribes of South Dakota Development Corporation for the Education of Indian Children in South Dakota Public Schools during the Period July 1, 1971 through June 30, 1973.* Denver, July 1974.

———. *Audit of Johnson-O'Malley Contract No. J50C14202308 between the Bureau of Indian Affairs and the California Tribal Chairmen's Association, Inc. for the Period April 17, 1973 through June 30, 1973 and the Association's Fiscal Year 1974 Proposal to the Bureau of Indian Affairs.* Sacramento, July, 1973.

———. *Audit of Johnson-O'Malley Contracts between the Bureau of Indian Affairs and the Arizona State Department of Education, Phoenix, Arizona, Period July 1, 1969 through June 30, 1971.* Sacramento, 1972.

———. *Audit of Johnson-O'Malley Financial Assistance to the Gallup-McKinley County School District, Gallup, New Mexico, Period July 1, 1969 through April 30, 1972.* Lakewood, Colo., June, 1972.

———. *Audit of Johnson-O'Malley Financial Assistance to the Independent School District No. 22, Kirkland, New Mexico, Period July 1, 1969 through April 30, 1972.* Lakewood, Colo., June, 1972.

———. *Report on Preaward Audit of Contract Proposal to the Bureau of Indian Affairs by the State of Arizona Department of Public Instruction for the Education of Indian Children Residing in Federal Dormitories Fiscal Year 1973. Sacramento*, Apr., 1973.

U.S. Laws, Statutes. *Act of Apr. 16, 1934.* (Johnson-O'Malley Act), 73d Cong., 2d Sess. (25 U.S.C. § 452, 48 Stat. 596).

JURISDICTION

Adams, Roger. *Application of the Assimilative Crimes Act on Indian Reservations.* Paper presented at the United States Attorneys' Conference, Phoenix, Ariz., Jan. 27–29, 1975.

Adams, Roger. *Problems with the Major Crimes Act Presented by "United States* v. *Cleveland"* and *"United States* v. *Chicago."* Paper presented at United States Attorneys' Conference, Phoenix, Ariz., Jan. 27–29, 1975.

Coulter, Tim. *Indian Jurisdiction.* Washington, Institute for the Development of Indian Law, 1974.

Fawcett, J. E. S. *The Law of Nations.* New York, Basic Books, 1968.

France, Floyd, *Litigation Involving Indian Tribal and State Jurisdiction.* Paper presented at the United States Attorneys' Conference, Phoenix, Ariz., Jan. 27–29, 1975.

———. *Recent Developments in Indian Civil Litigation.* Paper presented at the United States Attorneys' Conference, Phoenix, Ariz., Jan. 27–29, 1975.

Keller, Robert H., Jr., "On Teaching Indian History: Legal Jurisdiction in Chippewa Treaties." *Ethnohistory*, Vol. 19 (Summer, 1972): 209–217.

National American Indian Court Judges Assn. *Justice and the American Indian.* Vol. 1: The Impact of Public Law 280 upon the Administration of Justice on Indian Reservations; Vol. 2: The Indian Judiciary and the Concept of Separation of Powers; Vol. 3: The Effect of Having No Extradition Procedures for Indian Reservations: Vol. 4: Examination of the Basis of Tribal Law and Order Authority; Vol. 5: Federal Prosecution of Crimes Committee on Indian Reservations. Washington, D.C., 1974.

Neal, Albert M., Jr. *Legal Issues in Indian Jurisdiction.* Paper presented to the Committee on the Office of the Attorney General, National Assn. of Attorneys General, Raleigh, N.C., Dec. 1974.

Nielsen, George O. *The Doctrine of Usurpation of Jurisdiction: Self-Determination by Bootstrap.* Paper submitted to Indian Legal Problems Seminar, Seattle, Univ. of Washington Law Library, 1973.

Pauley, Roger. *S. 1's Treatment of Federal Jurisdiction over Offenses in Indian Country.* Paper presented at the United States Attorneys' Conference, Phoenix, Ariz., Jan. 27–29, 1975.

U.S. Department of the Treasury. *Taxation of Indian Businesses.* Letter from John S. Nolan, Acting Assistant Secretary to Harrison Loesch, Assistant Secretary, Public Land Management. Department of the Interior. July 14, 1970.

U.S. Library of Congress, Congressional Research Service. *Law Enforcement Problems on Federal Indian Reservations.* Prepared by Richard Jones. Washington, Sept. 24, 1975.

Waugh, Jack. "A Matter of Jurisdiction: Leased Indian Land in Legal Dispute." *Tacoma News Tribune*, Nov. 12, 1972.

PUBLIC LAW 83–280

Boland, Gerald. *Retrocession: The Effect upon State Services in Relation to Indian Tribes, Reservations and Indian People.* Paper submitted to Indian Legal Problems Seminar, Seattle, Univ. of Washington Law Library, 1973.

France, Floyd. *Litigation involving Indian Tribal and State Jurisdiction.* Paper presented at the United States Attorneys' Conference, Phoenix, Ariz., Jan. 27–29, 1975.

Great Lakes Inter-Tribal Council. *Wisconsin Retrocession Study, Preliminary Report.* Prepared by Jay O. Fletcher and R. H. Thoenig. Madison, Wis., Feb., 1975.

National American Indian Court Judges Association. *Justice and the American Indian.* Vol. 1: The Impact of Public Law 280 upon the Administration of Criminal Justice on Indian Reservations. Washington, D.C., 1974.

Nebraska, Legislative Council, Interim Study Committee on Judiciary. *Report on Indian Retrocession, Legislative Resolution No. 50.* Committee Report No. 226, Vol. III. Lincoln, Jan., 1976.

U.S. Congress. Senate Committee on Interior and Insular Affairs. Background Report on Public Law 280. Committee Print. (94th Cong., 1st Sess.) Washington, U.S. Govt. Print. Off., 1975.

U.S. Laws, Statutes. *An Act to Confer Jurisdiction.* Approved Aug. 15, 1953, 83d Cong., 1st Sess. (Public Law 83–280, 18 U. S.C. § 1162, 67 Stat. 588).

LAND

Atkinson, Brooks. "Proposed Dam that Would Violate Treaty with Senecas Poses Moral Question." *The New York Times*, Apr. 12, 1961.

Bledsoe, Samuel. *Indian Land Laws.* Kansas City, Mo., Vernon Law Book Co., 1913.

Chaudhuri, Joyotpaul. *Native American Title and Public Policy: The Vanishing Point of American Jurisprudence.* Paper presented at the International Studies Assn. meeting, Toronto, Feb., 1976.

Friends, Philadelphia Yearly Meeting of. *The Kinzua Dam Controversy, A Practical Solution—Without Shame.* Philadelphia, 1961.

Kickingbird, Kirke and Karen Ducheneaux. *One Hundred Million Acres.* New York, Macmillan Co. 1973.

LaCourse, Philip. *Land Use and Control: An Examination of Who Has the Authority to Zone Washington Indian Reservations.* Paper submitted to the Indian Legal Problems Seminar, Seattle, Univ. of Washington Law Library, May, 1971.

National Indian Youth Council. *Seneca Project Report, March 17–May 3, 1964.* (unpublished) Prepared by Karen Rickard, Shirley Witt and John Winchester. 1964.

Navajo Nation. *Anatomy of the Navajo Indian Reservation: How It Grew.* Prepared by J. Lee Correll and Alfred Dehiya. Window Rock, Ariz., 1972.

Royce, Charles, comp. *Indian Land Cessions in the United States.* Reprint. New York, Arno Press, 1971.

U.S. Department of the Interior, Bureau of Indian Affairs. *Annual Report of Indian Lands.* Prepared by Lila Jean Addie, Division of Trust Services. Washington, June 30, 1974.

———. *Application of Satellite Remote Sensing Data to Land Selection and Management Activities of Doyon, Ltd. of Interior Alaska. Final Report.* (BIA Contract No. E00C14201079.) Prepared by William Stringer, Lewis Shapiro and James Anderson. Washington, May, 1975.

———. *Indian Land Tenure, Economic Status and Population Trends—Part X of the Supplementary Report of the Land Planning Committee to the Natural Resources Board.* Washington, U.S. Govt. Print Off., 1935.

———. *Indians and the Land.* Contributions by the Delegation of the United States, First Inter-American Conference on Indian Life. Patzcuaro, Mexico, Apr. 1940. Washington, 1940.

———. *Report on Purchase of Indian Land and Acres of Indian Land in Trust 1934–1975.* Prepared by Theodore W. Taylor for the Office of Trust Responsibilities. Washington, May, 1976.

U.S. Library of Congress, Environmental Policy Division. *National Land Use Policy Legislation, 93d Congress.* Washington, U.S. Govt. Print. Off. 1973.

U.S. Public Land Law Review Commission. *One Third of the Nation's Land.* Washington, June, 1970.

Wilkinson, Cragun and Barker, Law Offices. *B.I.A. Land Management Activities in South Dakota Criticized.* General Memorandum No. 75–49. Washington, Aug. 22, 1975.

Claims

Allis, Samuel. "This Land is Your Land, This Land is My Land." *New Englander*, Vol. 23 (Jan., 1977) : 18–23.

LeBlond, David T. *Compensable Rights in Original Indian Title.* Paper submitted to the Indian Legal Problems Seminar. Seattle, Univ. of Washington Law Library, June, 1971.

Native American Rights Fund. *Indian Claims Commission Decisions.* 35 Vols. Boulder, 1973.

U.S. Department of the Interior, Office of the Solicitor. *Designation of Beneficial Owners of the XL Ranch, Modoc County, California.* Memorandum to the Secretary of the Interior. January 3, 1975.

U.S. Indian Claims Commission. *Annual Report.* Washington, 1975.

LEASING

Hughart, David. "Informational Asymmetry, Bidding Strategies, and the Marketing of Offshore Petroleum Leases." *Journal of Political Economy*, Vol. 83 (Oct., 1975): 969–986.

Standing Rock Sioux Tribe. *Coal Leasing Resolution #51–75.* Fort Yates, N. Dak.

U.S. Department of the Interior, Bureau of Indian Affairs. *Annual Report of Indian Land and Income from Surface and Subsurface Leases as of June 30, 1974.* Prepared by the Division of Trust Services. Washington, 1974.

———. *Final Environmental Statement Crow Ceded Area Coal Lease, Tracts II and III, Westmoreland Resources.* Billings, Mont., 1976.

U.S. Department of the Interior, Bureau of Land Management. *A Scientific and Policy Review of the Federal Environmental Impact Statement for the Prototype Oil Shale Leasing Program of the Department of the Interior.* Prepared by Katherine Fletcher and Malcolm Baldwin, The Institute of Ecology. Washington, Oct. 29, 1973.

U.S. Department of the Interior, Bureau of Land Management. *Draft Environmental Impact Statement, Proposed Federal Coal Leasing Program.* 2 Vols. (DES 74–53) Washington, U.S. Govt. Print. Off., 1974.

———. *A Scientific and Policy Review of the Draft Environmental Impact Statement for the Proposed Federal Coal Leasing Program of the Bureau of Land Management, Department of the Interior.* Prepared by Katherine Fletcher, The Institute of Ecology. Washington, 1974.

U.S. Federal Trade Commission, Bureau of Competition. *Report to the Federal Trade Commission on Mineral Leasing on Indian Lands.* (draft) Washington, Oct., 1975.

MENOMINEE RESTORATION

Native American Rights Fund. *The Menominee Restoration Act: Legal Analysis.* Prepared by Charles Wilkinson, Yvonne Knight and Joseph Preloznik. (National Indian Law Library, Boulders No. 001971) Boulder, 1973.

Shames, Deborah, ed. *Freedom with Reservation: The Menominee Struggle to Save Their Land and People.* Madison, Wis., National Committee to Save the Menominee People and Forests, 1972.

Wisconsin. Department of Health and Social Services, Bureau of Health Statistics. *Menominee County—Births, Deaths and Population 1968–1972.* Madison, Oct., 1974.

MICRONESIA

Chowdhuri, Ramendra. *International Mandates and Trusteeship Systems.* The Hague, 1955.

Conference on the History of the Territories of the U.S. *The American Territorial System.* Athens, Ohio Univ. Press, 1973.

Fifth Congress of Micronesia. *Report of the Eastern District Subcommittee to the Joint Committee on Future Status.* 1973.

Fifth Congress of Micronesia. *Report on the United Nations Trusteeship Council, Fortieth Session, 1973.* 1974.

Fifth Congress of Micronesia. *Report of the Western District Subcommittee to the Joint Committee on Future Status.* 1973.

Heine, Carl. *Micronesia at the Crossroads.* Australian National Univ. Press, 1974.

Kahn, Ely. *A Reporter in Micronesia.* New York, Norton & Co., 1966.

McHenry, Donald, *Micronesia: Trust Betrayed.* New York, Carnegie Endowment for International Peace, 1975.

Mink, Patsy. "A Call for Self-Government: 'Idyllic' Islands and the Interests of a Superpower." The Los Angeles Times, May 3, 1976.

Pearse, Richard and Keith Bezanson. *Education and Modernization in Micronesia: A Case Study in Development and Development Planning.* Stanford Univ., 1971.

Rich, Spencer. "Marianas Acquisition is Voted." *The Washington Post,* Feb. 25, 1976.

United Nations Trusteeship Council. *Report of the United Nations Visiting Mission to the Trust Territory of the Pacific Islands.* New York, 1970. 217 pp.

United Nations Trusteeship Council. *Report of the United Nations Visiting Mission to the Trust Territory of the Pacific Islands.* New York, 1973. 130 pp.

U.S. Office of Micronesian Status Negotiations. *The Future Political Status of the Trust Territory of the Pacific Islands.* 7 Vols. Washington.

MINERAL RESOURCES

Adelman, M. A. *The World Petroleum Market.* Baltimore, The Johns Hopkins Univ. Press, 1972.

Callaway, D. G., J. E. Levy and E. B. Henderson. "The Effect of Power Production and Strip Mining on Local Navajo Populations." *Lake Powell Research Project Bulletin,* No. 22 (June, 1976) : 114 pp.

Cox, J. C. and A. W. Wright. "The Determinants of Investment in Petroleum Reserves and Their Implications for Public Policy." *American Economic Review*, Vol. 66 (Mar., 1976) : 153–167.

Environmental Policy Center. *Facts About Coal in the United States.* Prepared by John L. McCormick. Washington, D.C., Feb., 1975. 36 pp.

Ford Foundation, Energy Policy Project. *Exploring Energy Choices: A Preliminary Report.* Washington, D.C., 1974.

Environmental Studies Board. *Rehabilitation Potential of Western Coal Lands.* Cambridge, Mass. Ballinger Pub. Co., 1974.

Gordon, Suzanne. *Black Mesa: The Angel of Death.* New York, John Day Co., 1973.

"Indian Coal Fight Tests U.S. Policies." *The Washington Post*, June 11, 1973.

Kentfield, Calvin. "New Showdown in the West." *The New York Times*, Jan. 28, 1973.

Kolstad, Charles. *The 1975 Energy Production System in the States of the Rocky Mountain Region.* (LA–6624) Los Alamos, N. Mex., Los Alamos Scientific Laboratory of the Univ. of California, Dec., 1976.

Leland, Hayne E. *Optimal Risk Sharing and the Leasing of Natural Resources, with Application to Oil and Gas Leasing on the OCS.* (Working Paper No. 38, Research Program in Finance, Graduate School of Business Administration, Univ. of California) Berkeley, Dec., 1975.

Lipton, Charles J. *Fiscal Aspects of Negotiating Third World Mineral Development Agreements.* Paper presented at the 104th Annual Meeting for the American Institute of Mining, Metallurgical and Petroleum Engineers, Feb. 18, 1975.

National Coal Association. *Bituminous Coal Facts.* Washington, D.C., 1972.

National Congress of American Indians. *Proceedings, Indian Energy Conference, August 28, 29, 1974. Billings, Montana* (unpublished). Washington, D.C. 1974.

Robbins, Lynn. "The Impact of Power Developments on the Navajo Nation." *Lake Powell Research Project Bulletin, No. 7* (Apr., 1975) : 22 pp.

Rocky Mountain Mineral Law Foundation. *Institute on Indian Land Development—Oil, Gas, Coal and Other Minerals.* A Conference at the Brannif Place Hotel, Tucson, Ariz., Apr. 1–2, 1976.

93-440—78——8

Smith, David N. and Louis T. Wells, Jr. *Negotiating Third World Mineral Agreements: Promises as Prologue.* Cambridge, Mass., Ballinger Publishing Co., 1975.

Stacks, John F. *Stripping.* San Francisco, Sierra Club, 1972.

U.S. Department of the Interior. *Final Environmental Statement. Proposed Development of Coal Resources in the Eastern Powder River Coal Basin of Wyoming.* 6 Vols. Washington, Oct. 18, 1974.

U.S. Department of the Interior. *Scientific and Policy Review of the Draft Environmental Impact Statement for the Proposed Federal Coal Leasing Program of the Bureau of Land Management.* Prepared by Katherine Fletcher, The Institute of Ecology. Washington, D.C., 1974.

U.S. Department of the Interior, Bureau of Indian Affairs. *Projected Coal Development Crow Indian Reservations, Draft Programmatic Environmental Statement.* (DES 75–2) Washington, 1975.

———. *Status of Mineral Resource Information for the Cherokee Indian Reservation, Jackson and Swain Counties, North Carolina.* Prepared by U.S.G.S. and the Bureau of Mines. (Administrative Report BIA–6) Washington, 1975.

———. *Status of Mineral Resource Information for the Colville Indian Reservation, Washington.* Prepared by U.S.G.S. and the Bureau of Mines (Administrative Report BIA–5) Washington, 1975.

———. *Status of Mineral Resource Information for the Crow Indian Reservation, Montana.* Prepared by U.S.G.S. and the Bureau of Mines. (Administrative Report BIA–7) Washington, 1975.

———. *Status of Mineral Resource Information for the Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, Nett Lake, and White Earth Indian Reservations, Minnesota.* Prepared by U.S.G.S. and the Bureau of Mines for the B.I.A. (Administrative Report BIA–1) Washington, 1975.

———. *Status of Mineral Resource Information for the Gila Bend, Papago, and San Xavier Indian Reservations, Arizona.* Prepared by U.S.G.S. and the Bureau of Mines. (Administrative Report BIA–9) Washington, 1975.

———. *Status of Mineral Resource Information for the Northern Cheyenne Indian Reservation, Montana.* Prepared by U.S.G.S. and the Bureau of Mines. (Administrative Report BIA–3) Washington, 1975.

———. *Status of Mineral Resource Information for the Red Lake Indian Reservation, Minnesota.* Prepared by U.S.G.S. and the Bureau of Mines. (Administrative Report BIA–2) Washington, 1975.

———. *Status of Mineral Resource Information for the Spokane Indian Reservation, Washington.* Prepared by U.S.G.S. and the Bureau of Mines. (Administrative Report BIA-10) Washington, 1975.

———. *Status of Mineral Resource Information for the Unitah and Ouray Reservations, Utah.* Prepared by U.S.G.S. and the Bureau of Mines. (Administrative Report BIA–4) Washington, 1975.

———. *Status of Mineral Resource Information for the Wind River Indian Reservation, Wyoming.* Prepared by U.S.G.S. and the Bureau of Mines. (Administrative Report BIA–8) Washington, 1975.

U.S. Department of the Interior, Bureau of Mines. *Minerals Yearbook 1972.* Vol. I: Metals, Minerals and Fuels; Vol. II: Area Reports: Domestic. Washington, 1974.

U.S. Department of the Interior, Bureau of Reclamation. *El Paso Coal Gasification Project New Mexico Draft Environmental Statement.* (DES 74–77) Washington, July 16, 1974.

U.S. Department of the Interior, U.S. Geological Survey. *Administrative Report: A Cursory Review of Potential Mineral Occurrences on Indian Lands.* Washington, Nov. 18, 1974.

———. *Anomolous Concentrations of Several Metals in Iron-Formation of the Blue Lead Mountain Area, Pennington County, South Dakota.* Prepared by W. H. Raymond, R. U. King and J. J. Norton. (Geological Survey Circular 707) Washington, 1975.

———. Classification of Lands on Colville Indian Reservation. Washington, D.C., U.S. Govt. Print. Off., 1973.

———. Comments on the Findings and Recommendations of the OA & I Audit Report of June 9, 1975, entitled, "Review of Royalty Accounting System for Onshore Oil and Gas Leases, Geological Survey." Washington, June 12, 1975.

———. *Federal and Indian Lands Coal, Phosphate, Potash, Sodium, and Other Mineral Production Royalty Income and Related Statistics, Fiscal Year 1975.* Washington, Mar., 1976.

———. *Federal and Indian Lands Oil and Gas Production, Royalty Income and Related Statistics, Calendar Year 1974.* Washington, June, 1975.

———. *Geology of Epigenetic Uranium Deposits in Sandstone in the United States.* Prepared by Warren I. Finch. (Geological Survey Professional Paper 538) Washington, U.S. Govt. Print. Off., 1967.

U.S. Environmental Protection Agency, Office of Energy, Minerals and Industry. *First Year Work Plan for a Technology Assessment of Western Energy Resource Development, Socioeconomic Environ-*

ment Studies Services. (EPA–600/5–75–001) Washington, Mar., 1976.

U.S. Federal Energy Administration. *Initial Report on Oil and Gas Resources, Reserves and Productive Capacities.* Washington, U.S. Govt. Print. Off., June, 1975.

———. *Project Independence: A Summary*, Washington, U.S. Govt. Print. Off., Nov., 1974.

———. *Project Independence Report.* Washington, U.S. Govt. Print. Off., Nov., 1974.

———. *The Natural Gas Shortage: A Preliminary Report* Washington, U.S. Govt. Print. Off., Aug., 1975.

U.S. Federal Trade Commission, Bureau of Competition, Bureau of Economics. *Report to the Federal Trade Commission on Federal Energy Land Policy: Efficiency, Revenue, and Competition.* Oct., 1975.

Ziontz, Alvin J. *Indian Self-Determinaton: New Patterns for Mineral Development.* (Paper 13.) Rocky Mountain Mineral Law Foundation, 1976.

NATURAL RESOURCES

Americans for Indian Opportunity. *Real Choices in Indian Resource Development.* Report presented at Reston Conference, Reston, Va., Sept. 16–18, 1974. Washington, 1974.

———. *Real Choices in Indian Resource Development: Alternatives to Leasing.* Report presented at Billings Conference, Jan. 30–Feb. 1, 1975. Washington, 1975.

———. *A Question of Power: Indian Control of Indian Resource Development.* Report presented at Racine Conference, Racine, Wis., Sept. 21–23, 1975. Washington, 1975.

———. *A Violation of Trust? Federal Management of Indian Forest Lands.* A.I.O. Red Paper prepared by Rich Nafziger. Washington, Mar. 3, 1976.

California. Senate. Subcommittee on Indian Affairs. *Senate Fact Finding Committee on Natural Resources.* Sacramento, Senate of the State of Calif., Jan., 1961.

Gaffney, Mason, ed. *Extrative Resources and Taxation.* Madison, Univ. of Wisconsin Press, 1967.

Josephy, Alvin M., Jr. "Indians and Environmentalists." *The New York Times*, Nov. 27, 1975.

U.S. Natural Resources Board. *A Report on National Planning and Public Works in Relation to National Resources Including Land Use and Water Resources with Findings and Recommendations.* Washington, U.S. Govt. Print. Off., 1934.

Univ. of California, Division of Agricultural Sciences. "The Benefits and Costs to Landowners from Geothermal Lease and Development." *Cooperative Extension Bulletin No. 1876* (1976).

OFFICE OF ECONOMIC OPPORTUNITY, U.S. (O.E.O.)

Indian Opportunities: A Summary of Indian Participation in O.E.O. Programs. Compiled by Univ. Consortium: Arizona State-Utah-South Dakota. 1968.

U.S. Office of Economic Opportunity. *Self-Determination: A Program of Accomplishments.* Arizona Affiliated Tribes, May, 1971.

U.S. Office of Economic Opportunity, Community Action Program. *Green Power: Consumer Action for the Poor.* Washington, Aug., 1969.

OKLAHOMA

Harlow, Victor Emmanuel, *Oklahoma History.* Norman, Okla., Harlow Publishing Corp., 1967.

Oklahoma Laws, Statutes. *Constitution of Oklahoma.* Articles 10, 25.

U.S. Laws, Statutes. *Oklahoma Organic Act.* Approved May 2, 1890 (43 U.S.C. § 1091, 26 Stat. 81).

PREFERENCE, INDIAN

Funke, Karl. "Education Assistance and Employment Preference: Who is an Indian?" Vol. IV, No. 1, *American Indian Law Review* (1975).

U.S. Department of Health, Education, and Welfare, Indian Health Service. *Distribution of Full-Time Employment as of December 31, 1973.* Revised Feb. 13, 1974. Prepared by Financial Management Branch. (Mimeo) Washington, 1974.

———. *Distribution of Full-Time Employment as of December 31, 1974.* Prepared by Financial Management Branch. Washington, Feb. 6, 1975.

———. *Distribution of Full-Time Employment as of December 31, 1975.* Prepared by Financial Management Branch. Washington, Feb. 24, 1976.

———. *Report on Employment and Indian Preference in the Indian Health Service.* Prepared by the National Indian Health Board. (IHS Basic Ordering Agreement No. HSA 80-74-588, Task Order No. 4.) Denver, Dec. 15, 1974.

U.S. Department of Interior, Bureau of Indian Affairs. *Indian Preference—A Preference to Conduct Self-Government.* Prepared by F. Browning Pipestem for the Commissioner of Indian Affairs. (Mimeo) Washington, 1968.

———. *Indian Preference Policy.* Memorandum to Area Directors, Central Office Directors. July 11, 1975.

U.S. Department of Interior, Office of the Solicitor. *Definition of "Indian" for Preference Eligibility.* Memorandum to Commissioner of Indian Affairs, Apr. 10, 1975.

RECOGNITION

Chamberlain, Tony. "Vanishing Americans." *Boston Globe*, Oct. 5, 1975. p. 14.

Barber, Carroll. *Trilingualism in Pascua: The Social Functions of Language in an Arizona Yaqui Village.* M.A. thesis, Univ. of Arizona, Tuscon, 1952.

Downs, Ernest C. *A Recognizable Tunica Indian Community; Documentation of the Tunica-Biloxi-Ofo-Avoyel Community near Marksville, Louisiana.* Institute for the Development of Indian Law, Washington, D.C., 1976.

Dumanoski, Dianne. "Battling to Regain a Lost Past." *The Boston Phoenix*, Aug. 26, 1975.

Maine. *Treaty with the Penobscot Tribe of Indians, August 17, 1820.* (970.3, p. 41) Bangor, Bangor Public Library.

Massachusetts. *Report to the Governor and Council Concerning the Indians of the Commonwealth, Under the Act of April 6, 1859.* Boston, William White, Printer to the State, 1861.

Massachusetts. *Treaty with the Penobscot Tribe of Indians, June 29, 1818.* Bangor, Bangor Public Library.

Native American Rights Fund. *Federal Recognition and the Passamaquoddy Decision.* Prepared by Thomas Tureen. Washington, D.C., 1976.

Small Tribes of Western Washington (STOWW). *Position Paper on the Federal Recognition Issue.* Sumner, Wash., 1975.

———. *Petition of the Steilacoom Tribe of Indians to the Secretary of the Interior for Formal Federal Recognition as an Indian Tribe.* Sumner, Wash., 1975.

———. *Petition of the Cowlitz Tribe of Indians to the Secretary of the Interior for Federal Recognition as a Recognized Indian Tribe.* Sumner, Wash., Sept. 22, 1975.

Spicer, Edward H, *Pascua: A Yaqui Village in Arizona.* Chicago, Univ. of Chicago Press, 1940.

———. "Potam: A Yaqui Village in Sonora." *American Anthropological Assn.*, Vol. 56 (1954). Memoir #77.

Tamarin, Alfred H. *We Have Not Vanished: Eastern Indians of the United States.* Chicago, Follett Pub. Co., 1974.

Tiger, Ellen D. *Federal Recognition of Northwest Treaty Tribes: An Arbitrary Policy.* Paper submitted to Indian Legal Problems Seminar, Univ. of Washington Law Library, Spring, 1972.

U.S. Commission on Civil Rights, North Carolina Advisory Committee. *Economic and Political Problems of Indians in Robeson County.* Washington, July, 1974.

U.S. Department of the Interior, Bureau of Indian Affairs. Portland Area Office. *Federal Recognition of Indian Tribes.* Memorandum to Commissioner of Indian Affairs. Portland, Oreg., 1973.

U.S. Laws, Statutes. *An Act to provide for the conveyance of certain land of the United States to the Pascua Yaqui Assn.* Approved Oct. 8, 1964, 88th Cong., 2d Sess. (Private Law 88–750).

Washington, Governor's Indian Advisory Council, Non-Reservation Council. *Position Paper and Recommendation Regarding Federal Recognition.* Olympia, July 12, 1976.

Willard, William. *The Community Development Worker in an Arizona Yaqui Project.* M.A. thesis, Univ. of Arizona, Tucson, 1970.

SOVEREIGNTY

Institute for the Development of Indian Law. *Indian Sovereignty.* Washington, D.C. 1975.

Vattel, M. de. *The Law of Nations; or Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns.* Philadelphia, T. and J. W. Johnson & Co., 1863.

STATE-INDIAN RELATIONS

Arizona, Commission on Indian Affairs. *Survey of the San Carlos Reservation.* Phoenix.

California, State Advisory Commission on Indian Affairs. *Final Report to the Governor and the Legislature.* Sacramento, 1969.

California, Department of Housing and Community Development. *A Report With Recommendations on State Governmental Organization and Legislative History of California Indians.* Sacramento, June, 1974.

Maine, Department of Indian Affairs. *State of Maine: A Compilation of Laws Pertaining to Indians.* Augusta, Jan., 1974.

Minnesota, Indian Affairs Commission. *Report to the Honorable Harold LeVander, Governor of Minnesota, and the Members of the Minnesota Legislature.* Lansing, 1969.

Oregon. Legislative Assembly. *Senate Bill 336, Establishes 11-Member Commission on Indian Services.* Salem, 1975.

South Dakota, Department of Commerce and Consumer Affairs. *Where We're At. . . . Statistical Report on the Status of Minorities and Women in South Dakota.* Prepared by Mary Ellen McEldowney. Pierre, 1973.

South Dakota. *Senate Concurrent Resolution No. 7.* For Detailed Study of Indian-State Relations. Pierre, 1973.

South Dakota, Office of the Governor. *Executive Order 73–8, Creating a Task Force on Indian-State Relations.* Pierre, June 11, 1973.

South Dakota, Task Force on Indian-State Relations. *Report.* Pierre, June 30, 1974.

Southwestern Indian Development, Inc. *A Proposal to Phoenix City Government,* the Phoenix City Council, Mayor John Driggs, Phoenix City Manager and All Concerned Residents of the City of Phoenix Regarding the Proposed 1972–1973 Federal Revenue Sharing Budget Recommendations and the Unmet Needs and Growing Discontent within the Phoenix Indian Community. Phoenix, Ariz., 1972.

U.S. Commission on Civil Rights, Maine Advisory Committee. *Federal and State Services and the Maine Indian.* Washington, Dec., 1974.

U.S. Statutes, Laws. *An Act to Establish the Territorial Government of Washington.* Approved Mar. 2, 1853 (10 Stat. 172).

Washington, Governor's Indian Affairs Task Force. *The People Speak: Will You Listen?* Olympia, 1973.

TAXATION

Fidell, Eugene R. *Taxes, Development and American Indians, Background Policy and Alternatives.* Paper submitted to Seminar on Tax Reform. Cambridge, Mass., Harvard Univ. Law Library, Apr. 15, 1968.

Native American Rights Fund. *Indian Taxation, Tribal Sovereignty and Economic Development.* Prepared by Daniel Israel and Thomas Smithson. (National Indian Law Library), Boulder, Colo., 1972.

U.S. Bureau of the Census. *A Report on Indians Taxed and Indians Not Taxed in the United States at the Eleventh Census, 1890.* Published 1894. Reprint, New York, AMS Press, 1970.

U.S. Department of the Interior, Bureau of Indian Affairs. Arizona State Indian Seminar. *Subcommittee Report on Taxation and Services to Arizona Reservation Indians.* Phoenix, 1973.

White, Jay Vincent. *Taxing Those They Found Here.* Washington, D.C., Institute for the Development of Indian Law, 1972.

TERMINATION

Bunting, David and W. T. Trulove. *Some Experiences with Guaranteed Incomes and Lump Sum Payments: The Case of the Klamath Indians.* Paper presented to the American Assn. for the Advancement of Science, Dec. 20, 1970.

Embry, Carlos. *America's Concentration Camps: the Facts about Our Indian Reservations Today.* New York, D. McKay, 1956.

Fey, Harold. "Indian Rights and American Justice." *The Christian Century.* Reprints Chicago, Christian Century Foundation, 1955.

———. "Our National Indian Policy." *The Christian Century,* Vol. 72 (Mar. 30, 1955).

Management Specialists. *Klamath Indian Tribe; Tentative Management Plan,* Vol 1, 1957. (mimeo) Eugene, Univ. of Oregon Special Collections.

Mobley, Keith. *The Klamath Indians: Federal Trusteeship 1864–1954.* Department of Economics, Univ. of Oregon Project: The liquidation of a Southern Oregon Indian Reservation, 1971.

Oregon, Department of Education. *Termination and the Klamath Indian Education Program, 1955–61.* Compiled by Hiroto Zakoji. Salem, 1961.

Ray, Verne. *The Klamath Indians and Their Forest Resources.* Indian Claims Commission Plaintiffs Exhibits R–1, Docket No. 100–B–2, Washington, D.C., 1973.

Sayers, Jerome and John Volkman. *A Statistical Profile of the Confederated Tribes of Siletz Indians.* Portland, Oreg., Center for Urban Education, Jan., 1976.

Stanford Research Institute. *Preliminary Planning for Termination of Federal Control over the Klamath Tribe.* (Project No. I–1440) Apr., 1956.

Stern, Theodore. *The Klamath Tribe.* Seattle, Univ. of Washington Press, 1965.

Trulove, W. T. and David Bunting. *The Economics of Paternalism: Federal Policy and the Klamath Indians.* Paper presented at the 46th Annual Convention Western Economics Assn., Simon Fraser Univ., Burnaby, B.C., Canada, Aug. 30, 1971.

U.S. Department of the Interior, Bureau of Indian Affairs. *Proposed Withdrawal of Federal Responsibilities over the Property and Affairs of the Indians of Western Oregon.* Prepared by E. Morgan Pryse, Director, Portland Area Office. Dec., 1953. (National Archives of the U.S., Senate, Record Group 46)

———. *Withdrawal of Federal Supervision Grande Ronde and Siletz Jurisdiction, State of Oregon.* Report by E. Morgan Pryse, Portland Area Office. Portland, Jan. 11, 1952.

U.S. Department of the Interior Bureau of Indian Affairs, Commissioner. *Withdrawal Programming.* Memorandum to all Bureau officials. Aug. 5, 1952.

———. *General Position of the Bureau with Respect to Withdrawal.* Memorandum to all Area Directors, Oct. 10, 1952.

———. *Report on Expediting Transfer of Bureau of Indian Affairs Education Responsibilities.* Memorandum to all Area Directors, Feb. 19, 1953.

U.S. Department of the Interior, Office of the Solicitor. *Status of New York Indians.* Memorandum to Commissioner of Indian Affairs (D–65–1130.9), May 12, 1965.

Watkins, Arthur. "Termination of Federal Supervision of Indians." *Annals of the American Academy of Political and Social Sciences,* Vol. 311, 1957.

TREATIES

All Indian Pueblo Council. *The Right to Remain Indian; the Failure of the Federal Government to Protect Indian Land and Water Rights.*

Crandall, Samuel Benjamin. *Treaties, Their Making and Enforcement.* New York, Columbia Univ. Press, Macmillan Co., agents, 1904.

Fay, George. *Treaties and Land Cessions Between the Bands of the Sioux and the United States of America.* (Colorado State College Occasional Publications in Anthropology. Ethnology Series, No. 1.) Greeley, Colorado State College Press, 1972.

Institute for the Development of Indian Law. *Treaties and Agreements.* Vols.: Southwest, Five Civilized Tribes, Eastern Oklahoma, Great Lakes Region, Chippewa Indians, Northern Plains, and Pacific Northwest. The American Indian Treaties Series. Vol. 1–A, Chronological List of Treaties and Agreements made by Indian Tribes in the United States, Washington, D.C., 1973.

Kappler, C. and J. *Indian Affairs: Laws and Treaties.* 4 Vols. Washington, D.C., U.S. Govt. Print. Off.

McNair, Arnold Duncan. *The Law of Treaties.* Oxford, England, Oxford Univ. Press, 1961.

Snow, Alpheus Henry. *The Question of Aborigines in the Law and Practice of Nations.* New York, G. P. Putnam's Sons, 1921.

Stevens, Isaac I. *The Treaty Between the United States and the Dwamish, Suquamish, and Other Allied and Subordinate Tribes of Indians in Washington Territory.* 1855. Seattle, Shorey Publications, 1971.

U.S. Department of the Interior, Bureau of Indian Affairs, Office of Trust Responsibilities. *The Role of Trustee—How Shall the Government Serve?* Prepared by Martin E. Seneca, Jr. Washington, 1974.

Vatell, Emmerich de. *The Law of Nations.* Philadelphia, T. and J. W. Johnson & Co., 1857.

Walker, F. A. "The Indian Question." *The North American Review,* Vol. 116 (Apr., 1973) : 329–388.

Wharton, Francis. *A Digest of the International Law of the United States.* Vols. 1–3. Washington, D.C., U.S. Govt. Print. Off., 1886.

TRIBAL GOVERNMENT

General

Eastern Band of Cherokees, Cherokee Tribal Government. *Cherokee Progress and Challenge.* Cherokee, N.C., 1971.

Fay, George E. Charters, *Constitutions and By-Laws of Indian Tribes of North America.* (Colorado State Occasional Publications in Anthropology. Ethnology Series, No. 1.) Greeley, Colorado State College Press, 1967.

Grant, James B. *Indian Justice Planning Project,* 1971 (Arizona, Colorado, New Mexico, Utah). Santa Fe, N. Mex., National Indian Justice Planning Association, 1971.

Hargrett, Lester. *A Bibliography of the Constitutions and Laws of the American Indians.* Cambridge, Mass., Harvard Univ. Press, 1947.

Israel, Daniel H. *The Reemergence of Tribal Nationalism.* Boulder, Colo. Native American Rights Fund, 1976.

Kent, Calvin A. and Johnson, Jerry W. *Flow of Funds on the Yankton Sioux Indian Reservation.* Minneapolis, Ninth District Federal Reserve Bank, June, 1976.

National American Indian Court Judges Assn. *Justice and the American Indian*, Vol. 4: Examination of the Basis of Tribal Law and Order Authority. Washington, D.C., 1974. 85 pp.

Noon, John A. *The Law and Government of the Grand River Iroquois.* 1949. Reprinted. New York, Johnson Reprint Corp., 1970.

Parker, Alan. *Indian Tribes as Governments.* American Indian Lawyer Training Program, Washington, D.C. New York, John Hay Whitney Foundation, 1975.

Rosenthal, Betty. *Indian Leadership in New England*, 1973. Lexington, Mass., Intercultural Studies Group, 1973.

Tribal Courts

U.S. Department of the Interior, Office of the Solicitor. *A Model Code for Tribal Courts.* Report, Apr., 1975 (FF). 112 pp.

National American Indian Court Judges Assn. *Justice and the American Indian*, Vol. 2: The Indian Judiciary and the Concept of Separation of Powers. Washington, D.C., 1974.

TRUST RELATIONSHIP

Snow, Henry. *The Question of Aborigine in the Law and Practice of Nations.* (Study for the Department of State) Washington, D.C., 1921.

U.S. Commission on Civil Rights. *Staff Memorandum: Constitutional Status of American Indians.* Office of Information and Publications, Washington, 1973.

U.S. Department of the Interior, Bureau of Indian Affairs. Branch of Investments. *Report Regarding Indian Trust Funds.* Albuquerque, 1975.

URBAN AND RURAL INDIANS

"American Indian Relocation: Problems of Dependency and Management in the City." *Phylon* (Winter, 1965): 362–371.

Chadwick, Bruce A., Howard M. Bahr and Joseph M. Stauss. *Indian-White Relationships in the Metropolis: The Seattle Case.* Department of Sociology, Washington State Univ., 1975.

Craig, Gregory W., Arthur M. Harkins and Richard G. Woods. *Indian Housing in Minneapolis and Saint Paul.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1969.

Drilling, Laverne, Arthur M. Harkins and Richard G. Woods. *The Indian Relief Recipient in Minneapolis: An Exploratory Study.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1969.

Frantz, Charles. *The Urban Migration and Adjustment of American Indians Since 1940.* Haverford, Pa., Department of Sociology, Haverford College, 1951.

Harkins, Arthur M. and Richard G. Woods. *The Social Programs and Political Styles of Minneapolis Indian: An Interim Report.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1969.

Gaillard, Frye. "Cities Contradict Lumbees' Values." *Race Relations Reporter*, Vol. 2 (June 21, 1971) : 6–9.

Gibbons, Richard, et al. *Indian Americans in South Side Minneapolis.* Additional Field Notes from the Urban Slum. Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

Goodner, James. *Indian Americans in Dallas: Migrations, Missions and Styles of Adaptation.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1969.

Harkins, A. and R. Woods. *Attitudes of Minneapolis Agency Personnel Toward Urban Indians.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1968.

———, *Indian Americans in Duluth: A Summary and Analysis of Recent Research.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

Harkins, Arthur M., I. Karon Sherarts and Richard G. Woods. *The Teachers of Minneapolis Junior High School Indian Children: A Second "Problem School."* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

Harkins, Arthur M., Mary L. Zemyan and Richard G. Woods. *Indian Americans in Omaha and Lincoln.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

Hippler, Arthur E. *From Village to Town: An Intermediate Step in the Acculturation of Alaska Eskimos.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

Hodge, William. *The Albuquerque Navajos.* Tucson, Univ. of Arizona Press, 1969.

Madigan, LaV. *The American Indian Relocation Program.* Report for Assn. on American Indian Affairs, Inc. Dec., 1956.

Nagata, Shuichi. *Modern Transformations of Meonkopi Pueblo.* Urbana, Univ. of Illinois Press, 1970.

National Indian Training and Research Center. *Urban Indian Study; A Phoenix Urban Study of Indian People's Opinions and Attitudes, Demography and Population Density.* Tempe, Ariz., 1971.

Neiis, Elaine M. *Reservation to City: Indian Migration and Federal Relocation.* Chicago, Department of Geography, Univ. of Chicago, 1971.

Neog, Prafulla. *The Chicago Indians: The Effects of Urban Migration.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

Price, John A. *American Indians in Los Angeles: A Study of Adaptations to a City.* (Papers of the 1966 U.C.L.A. Ethnographic Field School) Los Angeles, 1966.

Skobroten and Wolens. *Indians of the Urban Slums: Field Notes from Minneapolis.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

Smucker, Barbara Claassen. *Wigwam in the City.* (1st ed.) New York, Dutton, 1966.

Snyder, Peter. *Social Assimilation and Adjustment of Navajo Migrants to Denver, Colorado.* (Navajo Urban relocation Research Project No. 13) Boulder, Institute of Behavioral Sciences, Univ. of Colorado, 1968.

Suttles, Gerald. *The Social Order of the Slum: Ethnicity and Territory in the Inner City.* Chicago, Univ. of Chicago Press, 1968.

U.S. Chamber of Commerce. *Rural Poverty and Regional Progress in an Urban Society, Fourth Report of the Task Force on Economic Growth and Opportunity,* Washington, D.C., 1969.

U.S. Commission on Civil Rights, Minnesota Advisory Committee. *Bridging the Gap: The Twin Cities Native American Community,* Washington, 1975.

U.S. Department of Agriculture, Economic Research Service. *Rural Indian Americans in Poverty.* Prepared by Helen Johnson, Washington, 1969.

U.S. Departmet of Health, Education, and Welfare, Administration on Aging. *Economic and Social Problems of the Elderly Urban Indian in Phoenix, Arizona.* Prepared by Hirsh Kaplan and Benjamin J. Taylor. (RHEW, SRS Research Grant No. 93–P–750–11/9–04) Washington, 1972.

———, *Research Results Concerning the Economic and Social Problems of the Elderly Urban Indian in Phoenix, Arizona.* Prepared by R. D. Eck and R. D. St. Louis. (RHEW, SRS Research Grant No. AA–4–70–063–03) Washington, 1972.

U.S. Department of Interior, Office of Survey and Review. *Review of Welfare, Guidance and Relocation Activities, Bureau of Indian Affairs.* Washington, 1970.

U.S. Vice President, National Council on Indian Opportunity (NCIO). *Public Forum before the Committee on Urban Indians in Dallas, Texas of the National Council on Indian Opportunity.* Washington, 1969.

———. *Public Forum before the Committee on Urban Indians in Los Angeles, California of the National Council on Indian Opportunity.* Washington, 1968.

———. *Public Forum before the Committee on Urban Indians in Minneapolis-St. Paul, Minnesota of the National Council on Indian Opportunity.* Washington, 1969.

———. *Public Forum before the Committee on Urban Indians in Phoenix, Arizona of the National Council on Indian Opportunity.* Washington, 1969.

———. *Public Forum before the Committee on Urban Indians in San Francisco, California of the National Council on Indian Opportunity.* Washington, 1969.

Waddell, Jack O. *American Indian Urbanization.* Lafayette, Ind., Institute for the Study of Social Change, Purdue Univ., 1973.

Waddell, Jack O. and Michael Watson. *The American Indian in Urban Society.* Boston, Little, Brown & Co., 1971.

Weppner, Robert, *The Economic Absorption of Navajo Indian Migrants to Denver, Colorado.* Unpublished doctoral dissertation, Univ. of Colorado, 1968.

White, Robert A. *Summary Progress Report: The Development of Collective Decision Making Capacity in an American Indian Community.* St. Louis, Department of Sociology and Anthropology, St. Louis Univ., 1970.

Woods, Richard G. and Arthur M. Harkins. *An Examination of the 1968–1969 Urban Indian Hearings Held by the National Council on Indian Opportunity.* Part I: Education; Part II: Interracial Aspects; Part III: Indian Self-Definitions; Part IV: The Indian Center. Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1971.

———. *Indian Americans in Chicago.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1968.

———. *Indian Employment in Minnesota.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1968.

———. *A Review of Recent Research on Minneapolis Indians: 1968–1969.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1969.

Woods, Richard G. and Arthur M. Harkins. *Rural and City Indians in Minnesota Prisons.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

Zemyan, Mary and Arthur Harkins. *Educational and Related Characteristics of Urban Indians in the United States: A Selective Summary of 1960 Census Data.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, 1970.

WATER RESOURCES

"The American Indian and the Land—1974." Part 2: The Indian Water Wars. *Education Journal*, Vol. 2, No. 7 (1975) (Institute for the Development of Indian Law. Washington, D.C.)

Anderson, Alison. "An Expendable People: Power and Water in the American Southwest." *Ecologist*, Vol. 5 (Aug.–Sept. 1975): 237–240.

Federal Energy Administration. Project Independence. Water Resources Council. *Water Requirements, Availabilities, Constraints and Recommended Federal Actions.* Nov., 1974.

Kiechel, Walter, Jr. *Summary of Landmark Cases on Indian Water Rights.* Paper presented at the United States Attorneys' Conference, Jan. 28–29, 1975. Phoenix, Ariz.

Kelso, Maurice M. *Water Supplies and Economic Growth in an Arid Environment.* Tucson, Univ. of Arizona Press, 1973.

Mann, D., G. Weatherford and P. Nichols. "Legal-Political History of Water Resource Development in the Upper Colorado River Basin," No. 4, *Lake Powell Research Project Bulletin*, National Science Foundation, Sept., 1974. 53 pp.

Mann, Dean E. *The Politics of Water in Arizona.* Tucson, Univ. of Arizona Press, 1963.

National Water Commission. *New Directions in U.S. Water Policy: Summary, Conclusions and Recommendations.* Washington, U.S. Govt. Print. Off., 1973.

U.S. Army, Corps of Engineers. *Cheyenne River, S. Dakota, and Wyoming.* Washington, U.S. Govt. Print. Off., 1932.

———. *Cheyenne River: Flood Control, Power Development, Irrigation.* 1932.

———. *White River and Tributaries, South Dakota and Nebraska.* June, 1973. 50 pp.

U.S. Department of the Interior, Bureau of Reclamation. *San Juan-Chama and Navajo Indian Projects.* Letter. Washington, U.S. Govt. Print. Off., 1960.

———. *Supplemental Report, Congos Division*: San Luis Valley Project Report No. 5–101–1. Rio Grande Basin, Colo. Branch of Project Planning. Washington, 1947.

———. *Supplemental Report on Rio Grande and Weminuche Pass Divisions.* San Luis Valley Project, Colo. Division of Planning, Washington, U.S. Govt. Print. Off., 1955.

———. *Water and Land Resource Accomplishments, 1973 Summary Report.* Washington, Sept. 11, 1974.

Veeder, William H. *Federal Encroachment on Indian Water Rights and the Impairment of Reservation Development.* 91st Cong., 1st Sess., Joint Committee Print; Toward Economic Development for Native American Communities, Vol. 2, Part II: Development Programs and Plans. Washington, U.S. Govt. Print. Off., 1969.

Viessman, Warren. *San Juan-Chama and Navajo Indian Projects: Related Impacts in the San Juan River Basin.* June 12, 1975. 64 pp.

Wardlaw, Rebecca E. "The Irrigable Acres Doctrine." *Natural Resources Journal*, Vol. 15 (Apr., 1975): 375–384.

93-440—78——9

SPECIAL MATERIALS

BIBLIOGRAPHIES

An Account of Conferences Held, and Treaties Made, between Major-General Sir William Johnson, Dart., and the Chief Sachems and Warriors of the Mohawks, Oneidas, Onondagas, etc. Lancaster, Pa., Lancaster Press Inc., 1930.

Brewton, Berry, Comp. *The Education of American Indians, A Survey of the Literature.* (Committee print, 91st Cong., 1st Sess., 1969.) Washington, U.S. Govt. Print. Off., 1969.

Columbia Univ. *Index Digest of State Constitutions.* (2d ed.), New York, 1959.

Expert Testimony before the Indian Claims Commission. Index to the Expert Testimony before the Indian Claims Commission. New York, Clearwater Pub., Co., 1973.

Fenton, William Nelson. *American Indian and White Relations to 1830, Needs and Opportunities for Study.* Williamsburg, Va., Univ. of North Carolina Press, 1957.

Funke, Karl A. and Kirke Kickingbird. "The Role of Native Americans in American Legal History." Paper presented to the American Assn. of Law Libraries, Institute on American Legal History, Harvard Law School, June 26, 1976. *Law Library Journal*, Vol. 69, No. 4 (Nov., 1976) : 474–493.

Gookin, Daniel. *Historical Collection of the Indians in New England.* New York, Arno Press, 1972.

Harkins, Arthur. *A Bibliography of Urban Indians in the United States.* Minneapolis, Training Center for Community Programs, Univ. of Minnesota, July, 1971.

Hodge, William H. *A Bibliography of Contemporary North American Indians: Selected and Partially Annotated with Study Guides.* New York, Interland Publishing, 1975. 320 pp.

Honkala, Rudolf A. *Surface Mining and Mined Land Reclamation, A Selected Bibliography.* Washington, D.C. The Old West Regional Commission, Oct., 1974.

Indian Treaties Printed by Benjamin Franklin: 1736–1762. Philadelphia, Historical Society of Pennsylvania, 1938.

P. 124 - blank

Index to Literature on the American Indian. San Francisco, Indian Historian Press, 1970.

Locklear, Jane Maynor and Drenna J. Oxendine. "The Lumbee Indians: A Bibliography." *The Indian Historian* (Winter, 1974): 52–54.

Medicine, Beatrice. "The Role of Women in Native American Societies: A Bibliography." *The Indian Historian*, Vol. 8, No. 3 (Summer, 1975): 50–53.

Murdock, George Peter. *Ethnographic Bibliography of North America.* New Haven, Conn., Human Relations Area Files Press, 1975.

Native American Rights Fund: *National Indian Law Library Catalogue.* (Cumulative ed.) Boulder, Colo., 1976.

Sabatini, Joseph D. *A Selective Bibliography of Material in the University of New Mexico Law Library's Special Collection in American Indian Law.* (rev. ed.) Albuquerque, American Indian Law Center, School of Law, Univ. of New Mexico, Apr., 1972. 21 pp.

Smithsonian Institution; *List of Publications of the Bureau of Ethnology with Index to Authors and Titles.* (Bureau of American Ethnology, Bulletin 200.) Washington, D.C., 1970.

Smithsonian Institution, Center for the Study of Man. *Current North American Indian Periodicals.* Leaflet 75–7. Washington, D.C. 26 pp.

"Sources of American Indian Law." George Grossman, panel moderator. *Law Library Journal*, Vol. 67, No. 4 (Nov., 1974): 494.

South, Charles E. *Hearings in the records of the U.S. Senate and Joint Committees of the Congress.* Washington, D.C., National Archives, 1972.

Swanton, John Reed. *Source Material for the Social and Ceremonial Life of the Choctaw Indians.* Washington, U.S. Govt. Print. Off., 1931.

U.S. Department of Health, Education and Welfare, Health Services and Mental Health Admin. *Selected Bibliography (Indians and Health).* No. 71–24, May 25, 1971. 6 pp.

U.S. Departmnt of Health, Education and Welfare, Indian Health Service. *Index to General Counsel Opinions.* May 1975. Washington, D.C. 34 pp.

U.S. Department of Health, Education and Welfare, National Clearinghouse for Alcohol Information. *Subject Area Bibliography on Compendium of Ongoing Alcoholism Research*, Part B: American Indians, Eskimos. Washington, June 1974.

U.S. Department of Health, Education and Welfare, National Library of Medicine. *Indian Health in the U.S. and Canada, January 1964–August 1968.* Bethesda, Md.

U.S. Department of the Interior. *Digest of Decisions: Cases Relating to the Public Lands.* Vols. 1–61. Washington, D.C.

U.S. Library of Congress, National Referral Center. *A Directory of Information Resources in the U.S.: Social Sciences.* Washington, Library of Congress, 1973.

U.S. National Archives. *List of Documents Concerning the Negotiation of Ratified Indian Treaties, 1801–1869.* Millwood, N.Y., Kraus Reprint Co., 1975.

U.S. National Historical Publications Committee. *A Guide to Archives and Manuscripts in the United States.* New Haven, Conn., Yale Univ. Press, 1961.

Webb, Vincent J. *Indian Justice: A Research Bibliography.* Monticello, Ill., Council of Planning Libraries, Exchange Bibliography 1134, 1976. 67 pp.

Yale Univ. Department of Anthropology. *Ethnographic Bibliography,* Vol. 1. New Haven, Conn., Yale Univ. Press.

Bibliographic Services

Classified Abstract Archive of Alcohol Literature. Box 566, Rutgers Univ. Center of Alcohol Studies, New Brunswick, N.J.

National Clearinghouse for Mental Health Information (National Institute for Mental Health, U.S. Department of Health, Education, and Welfare). 5600 Fishers Lane, Rockville, Md. 20852.

National Criminal Justice Reference Service (National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice) Washington D.C.

National Institute on Alcohol Abuse and Alcoholism (National Institute of Mental Health, U.S. Department of Health, Education, and Welfare). 5600 Fishers Lane, Rockville, Md. 20852.

National Library of Medicine (U.S. Deprtment of Health, Education, and Welfare). National Interactive Retrieval Service. 8600 Rockville Pike, Bethesda, Md. 20014.

FEDERAL COURT CASES ON AMERICAN INDIAN ISSUES

[The list below represents some of the cases examined by the Commission staff.]

1809–1955

Buster v. *Wright*, 135 F. 947 (8th Cir. 1905).
Buttz v. *Northern Pacific R.R.*, 119 U.S. 55 (1886).
Cherokee Nation v. *Georgia*, 30 U.S. (5 Pet.) 1 (1831).
Draper v. *United States*, 164 U.S. 240 (1896).
Ex Parte Crow Dog, 109 U.S. 556 (1883).
Ex Parte Tilden, 218 F. 920 (D. Idaho 1914).
Felix v. *Patrick*, 145 U.S. 317 (1892).
Fletcher v. *Peck*, 6 Cranch 87 (1810).
Gon-shay-ee, Petitioner, 130 U.S. 343 (1889).
Hallowell v. *United States*, 221 U.S. 317 (1911).
Iron Crow v. *Oglala Sioux Tribe*, 231 F. 2d 89 (8th Cir. 1956).
Johnson v. *McIntosh*, 8 Wheat. 543 (1823).
The Kansas Indians, 5 Wall. 737 (1866).
Lane v. *Pueblo of Santa Rosa*, 249 U.S. 110 (1919).
Leahy v. *Treasurer of Oklahoma*, 297 U.S. 420 (1936).
Lone Wolf v. *Hitchcock*, 187 U.S. 553 (1903).
Makah Indian Tribe v. *Schoettler*, 192 F. 2d 224 (9th Cir. 1951).
Miller v. *United States*, 159 F. 2d 997 (9th Cir. 1947).
Minnesota v. *Hitchcock*, 160 U.S. 373 (1902).
Morris v. *Hitchcock*, 194 U.S. 384 (1904).
New York v. *Becker*, 241 U.S. 556 (1916).
The New York Indians, 5 Wall. 761 (1866).
Perrin v. *United States*, 232 U.S. 478 (1914).
Seminole Nation v. *White*, 224 F. 2d 173 (10th Cir. 1955).
Seufert Bros. Co. v. *United States*, 249 U.S. 194 (1919).
Spaulding v. *Chandler*, 160 U.S. 394 (1896).
Spriggs v. *McKay*, 228 F. 2d 31 (D.C. Cir. 1955).
Tee-Hit-Ton Indians v. *United States*, 348 U.S. 272 (1955).
Toosigah v. *United States*, 137 F. 2d 713, (10th Cir. 1943).
Toosigah v. *United States*, 186 F. 2d 93 (10th Cir. 1950).
Tulee v. *Washington*, 315 U.S. 681 (1942).
United States v. *Alcea Band of Tillamocks*, 329 U.S. 40 (1946).
United States v. *Celestine*, 215 U.S. 278 (1909).
United States v. *Chinburg*, 224 F. 2d 177 (10th Cir. 1955).
United States v. *Jackson*, 280 U.S. 183 (1930).
United States v. *McGowan*, 302 U.S. 535 (1938).
United States v. *Rickert*, 188 U.S. 432 (1903).
United States v. *Sandoval*, 231 U.S. 28 (1913).
United States v. *Sutton*, 215 U.S. 291 (1909).

P. 128 blank

United States v. *10.95 Acres of Land in Juneau*, 75 F. Supp. 841 (D. Alas. 1948).
United States v. *Winans*, 198 U.S. 371 (1905).
United States v. *Wright*, 53 F. 2d 301 (4th Cir. 1931).
Utah & Northern R.R. v. *Fischer*, 116 U.S. 28 (1885).
Ward v. *Race Horse*, 163 U.S. 504 (1896).
Whitney v. *Robertson*, 124 U.S .190 (1888).
Williams v. *United States*, 327 U.S. 711 (1946).
Winters v. *United States*, 207 U.S. 564 (1908).
Worcester v. *Georgia*, 31 U.S. (6 Pet.) 515 (1832).

1956

Arenas v. *United States*, 140 F. Supp. 606 (S.D. Cal. 1956).
Chitto v. *United States*, 138 F. Supp. 253 (Ct. Cl. 1956).
Choctaw & Chickasaw Nations v. *Seay*, 235 F. 2d 30 (10th Cir. 1956).
Demmert v. *Demmert*, 139 F. Supp. 325 (D. Alas. 1956).
Forest Lumber Co. v. *United States*, 141 F. Supp. 953 (Ct. Cl. 1956).
Furman v. *United States*, 140 F. Supp. 781 (Ct. Cl. 1956), *cert. denied*, 352 U.S. 847 (1956).
Gila River Pima-Maricopa Indian Community v. *United States*, 140 F. Supp. 776 (Ct. Cl. 1956).
Guith v. *United States*, 230 F. 2d 481 (9th Cir. 1956).
Hatahley v. *United States*, 351 U.S. 173 (1956).
Iron Crow v. *Oglala Sioux Tribe of the Pine Ridge Reservation*, 231 F. 2d (8th Cir. 1956).
Klamath Tribe v. *Maison*, 139 F. Supp. 634 (D. Ore. 1956).
Mole Lake Band v. *United States*, 139 F. Supp. 938 (Ct. Cl. 1956).
New Mexico & Arizona Land Co. v. *Elkins*, 137 F. Supp. 767 (D.N.M. 1956).
Oglala Sioux Tribe of the Pine Ridge Reservation v. *Barta*, 146 F. Supp. 917 (D.S.D. 1956).
Sioux Tribe v. *United States*, 146 F. Supp. 229 (Ct. Cl. 1956).
Squire v. *Capoeman*, 351 U.S. 1 (1956).
United States v. *Ahtanum Irrigation District*, 236 F. 2d 321 (9th Cir. 1956).
United States v. *Pierce*, 235 F. 2d 885 (9th Cir. 1956).
United States v. *Preston*, 232 F. 2d 77 (9th Cir. 1956).
United States v. *Washington*, 233 F. 2d 811 (9th Cir. 1956).
United States v. *West*, 232 F. 2d 694 (9th Cir. 1956).
Yuchi Tribe v. *United States*, 145 F. Supp. 206 (Ct. Cl. 1956).

1957

Alonzo v. *United States*, 249 F. 2d 189 (10th Cir. 1957).
Azure v. *United States*, 248 F. 2d 335 (8th Cir. 1957).
Barnett v. *Riggs National Bank*, 154 F. Supp. 75 (D.D.C. 1957).
Chicasha Cotton Oil Co. v. *Maysville*, 249 F. 2d 542 (10th Cir. 1957).
Haile v. *Saunooke*, 148 F. Supp. 602 (S.D.N.C. 1957).
Haile v. *Saunooke*, 246 F. 2d 293 (9th Cir. 1957).
Kirkwood v. *Arenas*, 243 F. 2d 863 (9th Cir. 1957).

Martinez v. *Southern Ute Tribe*, 249 F. 2d 915 (10th Cir. 1957).
McCord v. *Nickanorka*, 151 F. Supp. 132 (D. Alas. 1957).
Putnam v. *United States*, 248 F. 2d 292 (8th Cir. 1957).
St. Louis-San Francisco Ry. v. *Francis*, 249 F. 2d 546 (10th Cir. 1957).
State ex rel. Highway Community of New Mexico v. *United States*, 148 F. Supp. 508 (D.N.M. 1957).
Uintah & Wind River Bands of Ute Indians v. *United States*, 152 F. Supp. 953 (Ct. Cl. 1957).
United States v. *5,677.94 Acres of Land of the Crow Reservation*, 152 F. Supp. 861 (D. Mont. 1957).
United States v. *Fraser*, 156 F. Supp. 144 (D. Mont. 1957).
United States v. *Lamb*, 150 F. Supp. 310 (N.D. Cal. 1957).
United States v. *LaPlant*, 156 F. Supp. 660 (D. Mont. 1957).
United States v. *Seaton*, 248 F. 2d 154 (D.C. Cir. 1957).
United States v. *21,250 Acres of Land, Cattaraugus County*, 161 F. Supp. 376 (WD.N.Y. 1957).
Upper Chehalis Tribe v. *United States*, 155 F. Supp. 226 (Ct. Cl. 1957).
United States v. *Davis*, 148 F. Supp. 478 (D.N.D. 1957).

1958

Andreas v. *Henderson*, 160 F. Supp. 252 (S.D. Cal. 1958).
Barta v. *Oglala Sioux Tribe of Pine Ridge Reservation*, 259 F. 2d 553 (8th Cir. 1958).
Davis v. *Jones*, 254 F. 2d 696 (10th Cir. 1958).
Foreman v. *United States*, 256 F. 2d 766 (8th Cir. 1958).
Fraser v. *United States*, 261 F. 2d 282 (9th Cir. 1958).
Hildebrand v. *United States*, 261 F. 2d 354 (9th Cir. 1958).
Hood v. *United States*, 256 F. 2d 522 (9th Cir. 1958).
In re Carmen, 165 F. Supp. 942 (N.D. Cal. 1958).
Ivanhoe Irrigation District v. *McCracken*, 357 U.S. 466 (1958).
Prairie Band of Pottawatomie v. *United States*, 165 F. Supp. 139 (Ct. Cl. 1958).
Seneca Nation v. *Brucker*, 162 F. Supp. 580 (D.D.C. 1958).
Shepard v. *United States*, 162 F. Supp. 313 (D.D.C. 1958).
Tuscarora Indian Nation v. *Federal Power Comm'n.*, 265 F. 2d 338 (D.C. Cir. 1958); *rev'd on other grounds*, 362 U.S. 99 (1960).
Tuscarora Nation v. *Power Authority of New York*, 161 F. Supp. 702 (S.D.N.Y. 1958).
Tuscarora Nation v. *Power Authority of New York*, 164 F. Supp. 107 (W.D.N.Y. 1958), *modified*, 257 F. 2d 885 (2d Cir. 1958), *cert. denied*, 358 U.S. 841 (1958).
United States v. *Booth*, 161 F. Supp. 269 (D. Alas. 1958).
United States v. *5,677.94 Acres of Land of the Crow Reservation*, 162 F. Supp. 108 (D. Mont. 1958).
United States v. *Frishee*, 165 F. Supp. 883 (D. Mont. 1958).
United States v. *Kiowa, Comanche and Apache Tribes*, 163 F. Supp. 603 (Ct. Cl. 1958).
United States v. *2,005.32 Acres of Land, Carson County*, 160 F. Supp. 193 (D.S.D. 1958).
Wilburton, Oklahoma v. *Swafford*, 253 F. 2d 479 (10th Cir. 1958).

1959

Davis v. *Jones*, 254 F. 2d 696 (10th Cir. 1959).
Foster v. *United States*, 183 F. Supp. 524 (D.N.M. 1959).
Hayes v. *Seaton*, 270 F. 2d 319 (D.C. Cir. 1959).
Healing v. *Jones*, 174 F. Supp. 211 (D. Ariz. 1959).
Maysville, Oklahoma v. *Magnolia Petroleum Co.*, 272 F. 2d 806 (10th Cir. 1959).
Miami Tribe of Oklahoma v. *United States*, 175 F. Supp. 926 (Ct. Cl. 1959).
Native American Church of North America v. *Navajo Tribal Council*, 272 F. 2d 131 (10th Cir. 1959).
Nicodemus v. *Washington Water Power Co.*, 264 F. 2d 614 (9th Cir. 1959).
Organized Village of Kake v. *Egan*, 174 F. Supp. 500 (D. Alas. 1959).
Skokomish Indian Tribe v. *France*, 269 F. 2d 555 (9th Cir. 1959).
Springs v. *Seaton*, 271 F. 2d 583 (10th Cir. 1959).
Tlingit & Haida Indians of Alaska v. *United States*, 177 F. Supp. 452 (Ct. Cl. 1959).
United States v. *Camp*, 169 F. Supp. 568 (E.D. Wash. 1959).
United States v. *Davis*, 148 F. Supp. 478 (D.N.D. 1959).
United States v. *Davis*, 429 F. 2d 552 (8th Cir. 1959).
United States v. *Red Wolfe*, 172 F. Supp. 168 (D. Mont. 1959).
United States v. *Seminole Nation*, 173 F. Supp. 784 (Ct. Cl. 1959).
Williams v. *Lee*, 358 U.S. 217 (1959).

1960

Anderson v. *Gladden*, 188 F. Supp. 666 (D. Ore. 1960).
Confederated Tribes of the Umatilla Indian Reservation v. *Maison*, 186 F. Supp. 519 (D. Ore. 1960).
Crow Tribe v. *United States*, 284 F. 2d 361 (Ct. Cl. 1960).
Federal Power Comm'n. v. *Tuscarora Indian Nation*, 362 U.S. 99 (1960).
Fitzgerald v. *Ardmore, Oklahoma*, 281 F. 2d 717 (10th Cir. 1960).
Gonsales v. *Seaton*, 183 F. Supp. 708 (D.D.C. 1960).
Haley v. *Seaton*, 281 F. 2d 620 (D.C. Cir. 1960).
Kansas City, Kansas v. *United States*, 192 F. Supp. 179 (D. Kan. 1960).
Martinez v. *Southern Ute Tribe*, 273 F. 2d 731 (10th Cir. 1960).
McMoran v. *Tuscarora Nation*, 362 U.S. 608 (1960).
Metlakatla Indian Community v. *Egan*, 363 U.S. 555 (1960).
Miami Tribe of Oklahoma v. *United States*, 281 F. 2d 202 (Ct. Cl. 1960).
Navajo Tribe v. *NLRB*, 288 F. 2d 162 (D.C. Cir. 1960).
United States v. *Ballard*, 184 F. Supp. 1 (D.N.M. 1960).
United States ex rel. Pueblo of San Ildefonso v. *Brewer*, 184 F. Supp. 377 (D.N.M. 1960).
United States v. *Grand River Dam Authority*, 363 U.S. 229 (1960).
United States v. *Hilderbrand*, 190 F. Supp. 283 (D. Kan. 1960).
United States v. *Rider*, 282 F. 2d 476 (9th Cir. 1960).

1961

Anderson v. *Gladden*, 293 F. 2d 463 (9th Cir. 1961).
Pan American Petroleum Corp. v. *Udall*, 192 F. Supp. 626 (D.D.C. 1961).
Sakezzie v. *Utah Indian Affairs Comm'n.*, 198 F. Supp. 218 (D. Utah 1961).
Spriggs v. *United States*, 297 F. 2d 460 (10th Cir. 1961).
United States v. *Alaska*, 197 F. Supp. 834 (D. Alas. 1961).
United States v. *Cline*, 199 F. Supp. 676 (W.D.N.C. 1961).
Whitefoot v. *United States*, 293 F. 2d 658 (Ct. Cl. 1961).
Wise v. *United States*, 297 F. 2d 822 (10th Cir. 1961).
Navajo Tribe v. *NLRB*, 288 F. 2d 162 (D.C. Cir. 1961).

1962

Armstrong v. *United States*, 306 F.2d 520 (10th Cir. 1962).
Asenap v. *Huff*, 312 F.2d 358 (D.C. Cir. 1962).
Barnes v. *United States*, 205 F. Supp. 97 (D. Mont. 1962).
Big Eagle v. *United States*, 300 F.2d 765 (Ct. Cl. 1962).
Crain v. *First National Bank*, 206 F. Supp. 783 (D. Ore. 1962).
DeMarrias v. *South Dakota*, 206 F. Supp. 549 (S.D.S.D. 1962).
Dicke v. *Cheyenne-Arapaho Tribes, Inc.*, 304 F.2d 113 (10th Cir. 1962).
Foster v. *First National Bank*, 213 F. Supp. 884 (D. Ore. 1962).
Healing v. *Jones*, 210 F. Supp. 125 (D. Ariz. 1962).
Metlakatla Indian Community v. *Egan*, 369 U.S. 45 (1962).
Oliver v. *Udall*, 306 F.2d 819 (D.C. Cir. 1962).
Organized Village of Kake v. *Egan*, 369 U.S. 60 (1962).
Pawnee Indian Tribe of Oklahoma v. *United States*, 301 F.2d 667 (Ct. Cl. 1962).
Pinto v. *Tampo Largo*, 205 F. Supp. 129 (S.D. Cal. 1962).
Running Horse v. *Udall*, 211 F. Supp. 586 (D.D.C. 1962).
Seymour v. *Superintendent of Wash. State Penitentiary*, 368 U.S. 351 (1962).
Tobey v. *Udall*, 202 F. Supp. 319 (D. Ore. 1962).
United States v. *Alaska*, 201 F. Supp. 796)D. Alas. 1962).
United States v. *Hallam*, 304 F.2d 620 (10th Cir. 1962).

1963

Arizona v. *California*, 373 U.S. 546 (1963).
Arizona v. *California*, 376 U.S. 340 (1963).
Assiniboine and Sioux Tribes v. *Calvert Exploration Co.*, 223 F. Supp. 909 (D. Mont. 1963).
Crain v. *First National Bank*, 324 F.2d 532 (9th Cir. 1963).
DeMarrias v. *South Dakota*, 319 F.2d 845 (8th Cir. 1963).
Glover v. *United States*, 219 F. Supp. 19 (D. Mont. 1963).
Maison v. *Confederated Tribes of the Umatilla Indian Reservation*, 314 F.2d 169 (9th Cir. 1963).
Minnesota Chippewa Tribe v. *United States*, 315 F.2d 906 (Ct. Cl. 1963).

Nash v. *Wiseman*, 227 F. Supp. 552 (W.D. Okla. 1963).
Prairie Band of the Pottawatomie Tribe v. *Puckee*, 321 F.2d 767 (10th Cir. 1963).
Reed v. *United States National Bank*, 213 F. Supp. 919 (D. Ore. 1963).
Sakezzie v. *Utah Indian Affairs Comm'n*, 215 F. Supp. 12 (D. Utah 1963).
Sioux Tribe of the Lower Brule Reservation v. *United States*, 315 F.2d 378 (Ct. Cl. 1963).
Skokomish Indian Tribe v. *France*, 320 F.2d 205 (9th Cir. 1973).
Springer v. *Townsend*, 222 F. Supp. 231 (N.D. Okla. 1963).
United States v. *Moore Hill and Lumber Co.*, 313 F.2d 71 (9th Cir. 1963).

1964

Arizona v. *California*, 376 U.S. 340 (1964).
Bacher v. *Patencil*, 232 F. Supp. 939 (S.D. Cal. 1964).
Barclay v. *United States*, 233 F.2d 847 (Ct. Cl. 1964).
Cheyenne River Sioux v. *United States*, 388 F.2d 906 (1964).
Commissioner v. *Walker*, 326 F.2d 261 (9th Cir. 1964).
Green v. *Wilson*, 331 F.2d 769 (9th Cir. 1964).
Hilderbrand v. *Taylor*, 327 F.2d 205 (10th Cir. 1964).
In re McCoy, 233 F. Supp. 409 (E.D.N.C. 1964).
Iron v. *Knowles*, 234 F. Supp. 327 (D. Mont. 1964).
Klamath & Modoc Tribes v. *Maison*, 338 F.2d 620 (9th Cir. 1964).
Leaf v. *Udall*, 235 F. Supp. 366 (N.D. Cal. 1964).
Pease v. *Udall*, 332 F.2d 62 (9th Cir. 1964).
Sac & Fox Tribe of Oklahoma v. *United States*, 340 F.2d 368 (Ct. Cl. 1964).
Springer v. *Townsend*, 336 F.2d 397 (10th Cir. 1964).
Udall v. *Littell*, 338 F.2d 537 (D.C. Cir. 1964).
United States v. *Ahtanum Irrigation District*, 330 F.2d 897 (9th Cir. 1964).

1965

Bird-in-the-Ground v. *District Court of the Thirteenth Judicial District*, 239 F. Supp. 981 (D. Mont. 1965).
Bledsoe v. *United States*, 349 F.2d 605 (10th Cir. 1965).
Bowman v. *Udall*, 243 F. Supp. 672 (D.D.C. 1965).
Colliflower v. *Garland*, 342 F. Supp. 369 (9th Cir. 1965).
Daney v. *United States*, 247 F. Supp. 533 (D. Kan. 1965).
Daniels v. *United States*, 247 F. Supp. 193 (W.D. Okla. 1965).
Dosdall v. *Fraser*, 246 F. Supp. 311 (D. Mont. 1965).
Ellis v. *Page*, 351 F.2d 250 (10th Cir. 1965).
Littell v. *Nakai*, 344 F. Supp. 635 (D.D.C. 1965).
Red Lake & Pembina Bands v. *Turtle Mountain Band of Chippewa Indians*, 355 F.2d 936 (Ct. Cl. 1965).
Simmons v. *Eagle Seelatsee*, 244 F. Supp. 808 (E.D. Wash. 1965).
Superior Oil Co. v. *United States*, 353 F.2d 34 (9th Cir. 1965).
United States ex rel. Rollingson v. *Blackfeet Tribal Court*, 244 F. Supp. 474 (D. Mont. 1965).
United States v. *Emmons*, 351 F.2d 603 (9th Cir. 1965).
United States v. *Preston*, 352 F.2d 352 (9th Cir. 1965).

Warren Trading Post v. *Arizona State Tax Comm'n.*, 380 U.S. 685 (1965).
Yoder v. *Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation*, 339 F.2d 360 (9th Cir. 1965).

1966

Attochknie v. *Udall*, 261 F. Supp. 876 (W.D. Okla. 1966).
Chemak v. *Fodder*, 259 F. Supp. 910 (1966).
Cherokee v. *United States*, 355 F.2d 945 (Ct. Cl. 1966).
Chewie v. *Lock*, 261 F. Supp. 830 (N.D. Okla. 1966).
Choctaw & Chickasaw Nations v. *Board of County Commissioners*, 361 F.2d 932 (10th Cir. 1966).
Confederated Tribes of the Umatilla Indian Reservation v. *Maison*, 262 F. Supp. 871 (D. Ore. 1966).
Hinton v. *Udall*, 364 F.2d 676 (D.C. Cir. 1966).
Holt v. *Commissioner*, 364 F.2d 38 (8th Cir. 1966).
Hot Oil Service, Inc. v. *Hall*, 366 F.2d 295 (9th Cir. 1966).
Maryland Gas Co. v. *Citizens National Bank*, 361 F.2d 517 (5th Cir. 1966).
Midwestern Developments, Inc. v. *Tulsa*, 259 F. Supp. 554 (N.D. Okla. 1966).
Navajo Tribe of Indians v. *United States*, 364 F.2d 320 (Ct. Cl. 1966).
Navajo Tribe of Indians v. *United States*, 368 F.2d 279 (Ct. Cl. 1966).
Peoria Tribe of Indians of Oklahoma v. *United States*, 369 F.2d 1001 (Ct. Cl. 1966).
Prairie Band of the Pattawatomie Tribe of Indians v. *Udall*, 355 F.2d 364 (10th Cir. 1966).
Quinault Tribe of the Quinault Reservation v. *Gallagher*, 368 F.2d 648 (9th Cir. 1966).
Udall v. *Littell*, 336 F.2d 668 (D.C. Cir. 1966).
United States v. *Bruisedhead*, 248 F. Supp. 999 (D. Mont. 1966).
United States v. *Daney*, 370 F.2d 791 (10th Cir. 1966).
United States v. *Gomez*, 250 F. Supp. 535 (D.N.M. 1966).
United States v. *9,345.53 Acres of Land, Cattaraugus County*, 256 F. Supp. 603 (W.D.N.Y. 1966).
United States v. *Red Bear*, 250 F. Supp. 633 (D.S.D. 1966).
United States v. *Russell*, 261 F. Supp. 196 (E.D. Okla. 1966).
Whitebird v. *Eagle-Picher Co.*, 255 F. Supp. 308 (N.D. Okla. 1966).

1967

Appleton v. *Kennedy*, 268 F. Supp. 22 (N.D. Okla. 1967).
Assiniboine and Sioux Tribes v. *Nordwick* 378 F.2d 426 (9th Cir. 1967).
Atewooftakev v. *Udall*, 277 F. Supp. 464 (W.D. Okla. 1967).
Beardsley v. *United States*, 387 F.2d 280 (8th Cir. 1967).
Citizen Band of Pottawatomie Indians of Oklahoma v. *United States*, 391 F.2d 614 (Ct. Cl. 1967).
Couch v. *Udall*, 265 F. Supp. 848 (W.D. Okla. 1967).
Disney v. *Pritzker*, 385 F.2d 572 (7th Cir. 1967).
Finch v. *United States*, 263 F. Supp. 309 (W.D. Okla. 1967).

Finch v. *United States*, 387 F.2d 13 (10th Cir. 1967).
Gray v. *United States*, 394 F.2d 96 (9th Cir. 1967).
Harkins v. *United States*, 375 F.2d 239 (10th Cir. 1967).
Heffleman v. *Udall*, 378 F.2d 190 (10th Cir. 1967).
Holcomb v. *Confederated Tribes of the Umatilla Indian Reservation*, 382 F.2d 1013 (9th Cir. 1967).
Kickapoo Tribe of Kansas v. *United States*, 372 F.2d 980 (Ct. Cl. 1967).
Lawrence v. *United States*, 381 F.2d 989 (9th Cir. 1967).
Lewis v. *General Services Administration*, 377 F.2d 499 (9th Cir. 1967).
McKay v. *United States*, 274 F. Supp. 1022 (D.N.D. 1967).
Menominee Tribe v. *United States*, 388 F.2d 998 (Ct. Cl. 1967).
Rundle v. *Udall*, 379 F.2d 112 (D.C. Cir. 1967).
Sam v. *United States*, 385 F.2d 213 (10th Cir. 1967).
Simons v. *Udall*, 276 F. Supp. 75 (D. Mont. 1967).
Snoqualmie Tribe v. *United States*, 372 F.2d 951 (Ct. Cl. 1967).
Twin Cities Chippewa Tribal Council v. *Minnesota Chippewa Tribe*, 370 F.2d 529 (9th Cir. 1967).
United States v. *Bennett County*, 265 F. Supp. 249 (D.S.D. 1967).
Walks on Top v. *United States*, 372 F.2d 422 (9th Cir. 1967).

1968

Acunia v. *United States*, 404 F.2d 140 (9th Cir. 1968).
Asenap v. *United States*, 283 F. Supp. 566 (W.D. Okla. 1968).
Attocknie v. *Udall*, 390 F. Supp. 636 (10th Cir. 1968).
Beams v. *United States*, 294 F. Supp. 1218 (E.D. Okla. 1968).
Bennett County v. *United States*, 394 F.2d 8 (8th Cir. 1968).
Cherokee Nation in Oklahoma v. *Oklahoma*, 402 F.2d 739 (10th Cir. 1968).
Choctaw Nation v. *Atchison, Topeka & Santa Fe Ry.*, 396 F.2d 578 (10th Cir. 1968).
Choctaw Nation v. *Shull*, 396 F. 2d 583 (10th Cir. 1968).
Choctaw Nation v. *St. Louis-San Francisco Ry.*, 396 F.2d 582 (10th Cir. 1968).
Choctaw Nation v. *Udall*, 404 F.2d 97 (10th Cir. 1968).
David v. *Littell*, 398 F.2d 83 (9th Cir. 1968).
Dodge v. *Nakai*, 298 F. Supp. 17 (D. Ariz. 1968).
Fort Berthold Reservation v. *United States*, 390 F.2d 686 (Ct. Cl. 1968).
Gourneau v. *United States*, 390 F.2d 320 (8th Cir. 1968).
Gray v. *Johnson*, 395 F.2d 533 (10th Cir. 1968), *cert. denied*, 392 U.S. 906 (1968).
Kirk v. *Kirk*, 295 F. Supp. 1001 (D. Ore. 1968).
Mann v. *United States*, 399 F.2d 672 (9th Cir. 1968).
Menominee Tribe v. *United States*, 391 U.S. 404 (1968).
Motah v. *United States*, 402 F.2d 1 (10th Cir. 1968).
Mull v. *United States*, 402 F.2d 571 (9th Cir. 1968).
Peoria Tribe of Oklahoma v. *United States*, 390 U.S. 468 (1968).
Poafpybitty v. *Skelly Oil Co.*, 390 U.S. 365 (1968).
Pocatello v. *United States*, 394 F. 2d 115 (9th Cir. 1968).
Puyallup Tribe v. *Department of Game*, 391 U.S. 392 (1968).

Rayonier, Inc. v. *Polson*, 400 F.2d 909 (9th Cir. 1968).
Seifert v. *Udall*, 280 F.Supp. 443 (D. Mont. 1968).
Simons v. *Vinson*, 394 F. 2d 732 (5th Cir. 1968).
Tlingit and Haida Indians of Alaska v. *United States*, 389 F.2d 778 Ct. Cl. 1968).
Tweedy v. *Texas Co.*, 286, F. Supp. 383 (D. Mont. 1968).
Udall v. *Taunah*, 398 F.2d 795 (10th Cir. 1968).
United States v. *Gila River-Maricopa Indian Community*, 391 F.2d 53 (9th Cir. 1968).
United States v. *Northern Paiute Nation*, 393 F.2d 786 (Ct. Cl. 1968).
United States v. *Vulles*, 282 F. Supp. 829 (D. Mont. 1968).
Whitebird v. *Eagle-Picher Co.*, 390 F. 2d 831 (10th Cir. 1968).
Poafpybitty v. *Skelly Oil Co.*, 390 U.S. 365 (1968).

1969

Agua Caliente Band of Mission Indians v. *County of Riverside*, 306 F. Supp. 279 (S.D. Cal. 1969).
Arizona ex rel. Merrill v. *Turtle*, 413 F.2d 683 (9th Cir. 1969).
Bumgarner v. *Ute Indian Tribe of Uintah and Ourey Reservation*, 417 F.2d 1305 (10th Cir. 1969).
Cheyenne River Sioux Tribes v. *United States*, 338 F.2d 906 (8th Cir. 1969).
Confederated Salish and Kootenai Tribes of the Flathead Reservation v. *United States*, 401 F.2d 785 (Ct. Cl. 1968), *cert. denied*, 393 U.S. 1055 (1969).
Dodge v. *Nakai*, 298 F. Supp. 26 (D. Ariz. 1969).
Fontenelle v. *Omaha Tribe of Nebraska*, 298 F. Supp. 855 (D. Ariz. 1969).
High Horse v. *Tate*, 407 F.2d 394 (10th Cir. 1969).
Hopkins v. *United States*, 414 F.2d 464 (9th Cir. 1969).
Marsh v. *Union Pacific R.R.*, 304 F. Supp. 478 (D. Ore. 1969).
Scholder v. *United States*, 298 F. Supp. 1282 (S.D. Cal. 1969).
Settler v. *Lameer*, 419 F.2d 1311 (9th Cir. 1969).
Settler v. *Yakima Tribal Court*, 419 F.2d 486 (9th Cir. 1969).
Shapiro v. *Thompson*, 394 U.S. 618 (1969).
Sohappy v. *Smith*, 302 F. Supp. 899 (D. Ore. 1969).
Spotted Eagle v. *Blackfeet Tribe of the Blackfeet Indian Reservation*, 301 F. Supp. 85 (D. Mont. 1969).
United States v. *Native Village of Unalakleet*, 411 F.2d 1255 (Ct. Cl. 1969).
United States ex rel. Burnette v. *Valandra*, 300 F. Supp. 312 (D.S.D. 1969).
Williams v. *United States*, 406 F.2d 704 (9th Cir. 1969), *cert. denied*, 394 U.S. 959, (1969).

1970

Affiliated Ute Citizens of Utah v. *United States*, 431 F.2d 1349 (10th Cir. 1970).
Choctaw Nation v. *Oklahoma*, 397 U.S. 619 (1970).
Fields v. *United States*, 423 F.2d 380 (Ct. Cl. 1970).
Fontenelle v. *Omaha Tribe of Nebraska*, 430 F.2d 143 (8th Cir. 1970).
Gila River Pima-Maricopa Indian Community v. *United States*, 427 F.2d 1194 (Ct. Cl. 1970).

Great Lakes Inter-tribal Council, Inc. v. *Voigt*, 309 F. Supp. 60 (W.D. Wisc. 1970).
Hebah v. *United States*, 428 F.2d 1334 (Ct. Cl. 1970).
Mescalero Apache Tribe v. *Hickel*, 432 F.2d 956 (10th Cir. 1970).
Littell v. *Hickel*, 314 F. Supp. 1176 (D. Md. 1970).
Pinnow v. *Shoshone Tribal Council*, 314 F. Supp. 1157 (D. Wyo. 1970).
Reyos v. *United States*, 431 F.2d 1337 (10th Cir. 1970).
Scholder v. *United States*, 428 F.2d 1123 (9th Cir. 1970).
Sisseton & Wahpeton Tribes v. *United States*, 423 F.2d 1386 (Ct. Cl. 1970).
Tewa Tesuque v. *Morton*, 498 F.2d 240 (10th Cir. 1970).
Tooahnippah (Coombi) v. *Hickel*, 397 U.S. 570 (1970).
United States v. *Alpine Land & Reservoir Co.*, 431 F.2d 763 (9th Cir. 1970).
United States v. *Assiniboine Tribes*, 428 F.2d 1324 (Ct. Cl. 1970).
United States v. *Childs*, 429 F.2d 603 (9th Cir. 1970).
United States v. *Davis*, 429 F.2d 552 (8th Cir. 1970).
United States v. *Delaware Tribe*, 427 F.2d 1218 (Ct. Cl. 1970).
United States v. *Fishing Vessels Pan Alaska, St. John and Junior*, 315 F. Supp. 10005 (D. Alas. 1970).
United States v. *Hornbuckle*, 422 F.2d 391 (4th Cir. 1970).
United States v. *Kinney*, 437 F.2d 407 (9th Cir. 1970).
United States v. *Southern Ute Tribe or Band*, 423 F.2d 346 (Ct. Cl. 1970).
United States v. *10.69 Acres of Land, Yakima County*, 425 F.2d 317 (9th Cir. 1970).
United States v. *Wheeler*, 434 F.2d 1195 (9th Cir. 1970).
Ute Indian Tribes v. *Probst*, 428 F.2d 491 (10th Cir. 1970).

1971

Akers v. *Morton*, 333 F. Supp. 184 (D. Mont. 1971).
Annis v. *Dewey County Bank*, 335 F. Supp. 133 (1971).
Big Eagle v. *United States*, 323 F. Supp. 60 (D.S.D. 1971).
Carter v. *Carlson*, 447 F.2d 358 (D.C. Cir. 1971), *rev'd.*, 409 U.S. 418 (1973).
Confederated Salish and Kootenai Tribes of the Flathead Reservation v. *United States*, 437 F.2d 458 (Ct. Cl. 1971).
Confederated Salish and Kootenai Tribes of the Flathead Reservation v. *Vulles*, 437 F.2d 177 (9th Cir. 1971).
Davis v. *Morton*, 335 F. Supp. 1258 (D.N.M. 1971).
Fondahn v. *Native Village of Tyonek*, 450 F.2d 520 (9th Cir. 1971).
Groundhog v. *Keeler*, 442 F.2d 674 (10th Cir. 1971).
Guardianship of Pietro v. *City of Palm Springs*, 328 F. Supp. 716 (C.D. Cal. 1971).
Henry v. *United States*, 432 F.2d 114 (9th Cir. 1971).
Kennerly v. *District Court of the Ninth Judicial District*, 400 U.S. 423 (1971).
Kills Crow v. *United States*, 451 F.2d 323 (8th Cir. 1971).
Klamath & Modoc Tribes v. *United States*, 436 F.2d 1008 (Ct. Cl. 1971).

Leech Lake Band of Chippewa Indians v. *Herbst*, 334 F. Supp. 1001 (Ct. Cl. 1971).
Lefthand v. *Crow Tribal Council*, 329 F. Supp. 728 (D. Mont. 1971).
Loncassion v. *Leekity*, 334 F. Supp. 370 (D.N.M. 1971).
Luxon v. *Rosebud Sioux Tribe of South Dakota*, 337 F. Supp. 243 (D.S.D. 1971).
Omaha Tribe of Nebraska v. *Village of Walthill*, 334 F. Supp. 823 (D. Neb. 1971).
Otradovec v. *First Wisconsin Trust Co.*, 322 F. Supp. 108 (E.D. Wis. 1971).
Rincon Band of Mission Indians v. *County of San Diego*, 324 F. Supp. 371 (S.D. Cal. 1971).
Rockbridge v. *Lincoln*, 449 F.2d (9th Cir. 1971).
Slattery v. *Arapahoe Tribal Council*, 453 F.2d 278 (10th Cir. 1971).
Solomon v. *LaRose*, 335 F. Supp. 715 (D. Neb. 1971).
Stevens v. *Comm'r. of Internal Revenue*, 452 F.2d 741 (9th Cir. 1971).
United States v. *Begay*, 441 F.2d 1136 (10th Cir. 1971).
United States v. *Brown*, 334 F. Supp. 536 (D. Neb. 1971).
United States v. *Burland*, 441 F.2d 1199 (9th Cir. 1971).
United States v. *Consolidated Mines & Smelting Co.*, 455 F.2d 432 (9th Cir. 1971).
United States v. *DeMarias*, 441 F.2d 1304 (8th Cir. 1971).
United States v. *Jewett*, 438 F.2d 495 (8th Cir. 1971).
United States v. *Joe*, 452 F.2d 653 (10th Cir. 1971).
United States v. *Labbitt*, 334 F. Supp. 665 (D. Mont. 1971).
United States v. *LeMay*, 330 F. Supp. 628 (D. Mont. 1971).
United States v. *Martine*, 442 F.2d 1022 (10th Cir. 1971).
United States v. *Southern Ute Tribe or Band*, 402 U.S. 159 (1971).

1972

Affiliated Ute Citizens of Utah v. *United States*, 406 U.S. 128 (1972).
Aqua Caliente Band of Mission Indians Tribal Council v. *City of Palm Springs*, 347 F. Supp. 42 (C.D. Cal. 1972).
Cherokee Nation v. *Oklahoma*, 461 F.2d 674 (10th Cir. 1972).
Newton, North Dakota v. *United States*, 454 F.2d 121 (8th Cir. 1972).
Confederated Salish and Kootenai Tribes of Montana v. *United States*, 467 F.2d 1315 (Ct. Cl. 1972).
Dillon v. *Antler Land Co.*, 341 F. Supp. 734 (D. Mont. 1972).
Gila River Pima-Maricopa Indian Community v. *United States*, 467 F.2d 1351 (Ct. Cl. 1972).
Hamilton v. *Nakai*, 453 F.2d 152 (9th Cir. 1972), *cert. denied*, 406 U.S. 945 (1972).
Kelly v. *Department of Interior*, 399 F. Supp. 1095 (N.D. Cal. 1972).
Luxon v. *Rosebud Sioux Tribe of South Dakota*, 455 F.2d 698 (8th Cir. 1972).
Mason v. *United States*, 461 F.2d 1364 (Ct. Cl. 1972).
Montana Power Co. v. *Federal Power Commission*, 459 F.2d 863 (D.C. Cir. 1972).
Northern Cheyenne Tribe v. *Hollowbreast*, 349 F. Supp. 1302 (D. Mont. 1972).
Otradovec v. *First Wisconsin Trust Co.*, 454 F.2d 125 (7th Cir. 1972).

93-440—78——10

Quechan Tribe v. *Rose*, 350 F. Supp. 106 (S.D. Cal. 1972).
Robinson v. *Wolff*, 349 F. Supp. 514 (D. Neb. 1972).
Robinson v. *Wolff*, 468 F.2d 438 (8th Cir. 1972).
Ruiz v. *Morton*, 462 F.2d 818 (9th Cir. 1972).
Salt River Pima-Maricopa Indian Community v. *Arizona S & R Co.*, 353 F. Supp. 1098 (D. Ariz. 1972).
Seneca Constitutional Rights Organization v. *George*, 348 F. Supp. 51 (W.D.N.Y. 1972).
Sessions, Inc. v. *Morton*, 348 F. Supp. 694 (C.D. Cal. 1972).
United States v. *Boone*, 347 F. Supp. 1031 (D.N.M 1972).
United States v. *Jim*, 409 U.S. 80 (1972).
United States v. *Kabinto*, 456 F.2d 1087 (9th Cir. 1972).
United States v. *Keeble*, 259 F.2d 757 (8th Cir. 1972).
United States v. *Lewiston Lime Co.*, 466 F.2d 1358 (9th Cir. 1972).
United States v. *Neptune*, 337 F. Supp. 1028 (D. Conn. 1972).
United States v. *Schwarz*, 460 F.2d 1365 (7th Cir. 1972).
United States. v. *Thomas*, 469 F.2d 145 (8th Cir. 1972).
United States ex. rel. Condon v. *Erickson*, 344 F. Supp. 777 (D.S D. 1972).
Ware v. *Richardson*, 347 F. Supp. 344 (W.D. Okla. 1972).

1973

Aleut Community of St. Paul Island v. *United States*, 480 F. 2d 831 (Ct. Cl. 1973).
Baciarelli v. *Morton*, 481 F. 2d 610 (9th Cir. 1973).
Brown v. *United States*, 486 F. 2d 658 (8th Cir. 1973).
Daly v. *United States*, 483 F. 2d 700 (8th Cir. 1973).
DeMarrias v. *United States*, 487 F. 2d 19 (8th Cir. 1973).
Department of Game v. *Puyallup Tribe*, 414 U.S. 44 (1973).
Edwardsen v. *Morton*, 369 F. Supp. 1359 (D.D.C. 1973).
Enterprise Electric Co. v. *Blackfeet Tribe*, 353 F. Supp. 991 (D. Mont. 1973).
Fort Mojave Tribe v. *LaFollette*, 478 F. 2d 1016 (9th Cir. 1973).
Friends of the Earth v. *Armstrong*, 360 F. Supp. 165 (D. Utah), *cert. denied*, 414 U.S. 1171 (1974).
Friends of the Earth v. *Armstrong*, 485 F. 2d 449 (9th Cir. 1973).
Kale v. *United States*, 489 F. 2d 449 (9th Cir. 1973).
Laramie v. *Nicholson*, 478 F. 2d 315 (9th Cir. 1973).
Lohnes v. *Cloud*, 366 F. Supp. 619 (D.N.D. 1973).
McClanahan v. *Arizona Tax Commission*, 411 U.S. 164 (1973).
Mescalero v. *Jones*, 411 U.S. 145 (1973).
Moses v. *Kinnear*, 490 F. 2d 21 (9th Cir. 1973).
Nat'l. Indian Youth Council v. *Bruce*, 366 F. Supp. 313 (D. Utah 1973), *aff'd.*, 485 F. 2d 97 (10th Cir. 1973).
O'Neal v. *Cheyenne River Sioux Tribe*, 482 F. 2d 1140 (8th Cir. 1973).
Perrin v. *United States*, 232 U.S. 478 (1973).
Preston Nutter Corp. v. *Morton*, 479 F. 2d 696 (10th Cir. 1973).
Quinault Allottee Assn. v. *United States*, 485 F. 2d 1391 (Ct. Cl. 1973), *cert. denied*, 416 U.S. 961 (1974).
Short v. *United States*, 486 F. 2d 561 (Ct. Cl. 1973), *cert. denied*, 416 U.S. 961 (1974).
United States v. *Blackfeet Tribe*, 364 F. Supp. 192 (D. Mont. 1973).

United States v. *Fort Sill Apache Tribe of Oklahoma*, 480 F. 2d 819 (Ct. Cl. 1973), *cert. denied*, 416 U.S. 993 (1974).
United States v. *Kiowa, Comanche & Apache Tribes*, 479 F. 2d 1369 (Ct. Cl. 1973).
United States v. *Mazune*, 487 F. 2d 14 (10th Cir. 1973), *rev'd.*, 419 U.S. 544 (1975).
United States v. *Mason*, 412 U.S. 391 (1973).
United States v. *Pollman*, 364 F. Supp. 995 (D. Mont. 1973).
United States v. *Redstone*, 488 F. 2d 300 (8th Cir. 1973).
White Eagle v. *One Feather*, 478 F. 2d 1311 (8th Cir. 1973).
Yazzie v. *Morton*, 59 F.R.D. 377 (D. Ariz. 1973).

1974

Akers v. *Morton*, 499 F. 2d 44 (9th Cir. 1974), *cert. denied*, 423 U.S. 831 (1974).
Choctaw Nation v. *Oklahoma*, 490 F. 2d 521 (10th Cir. 1974), *cert. denied*, 417 U.S. 946 (1974).
Felicia v. *United States*, 495 F. 2d 353 (8th Cir. 1974), *cert. denied*, 419 U.S. 849 (1974).
Freeman v. *Morton*, 499 F. 2d 494 (D.C. Cir. 1974).
Gila River Pima-Maricopa Indian Community v. *United States*, 494 F. 2d 1386 (Ct. Cl. 1974), *cert. denied*, 419 U.S. 1021 (1974).
Kimball v. *Callahan*, 493 F. 2d 564 (9th Cir. 1974), *cert. denied*, 419 U.S. 1019 (1974).
Littell v. *Morton*, 369 F. Supp. 411 (D. Md. 1974).
Morton v. *Mancari*, 417 U.S. 535 (1974).
McCurdy v. *Steele*, 506 F. 2d 653 (10th Cir. 1974).
Morton v. *Ruiz*, 415 U.S. 199 (1974).
Norvell v. *Sangre de Cristo Development Co.*, 372 F. Supp. 348 (D.N.M. 1974).
Oneida Indian Nation v. *County of Oneida*, 414 U.S. 661 (1974).
Pallin v. *United States*, 496 F. 2d 27 (9th Cir. 1974).
Poitra v. *DeMarrias*, 502 F. 2d 23 (8th Cir. 1974).
Rosebud Sioux Tribe v. *Kneip*, 375 F. Supp. 1065 (D.S.D. 1974), *aff'd.*, 521 F. 2d 87 (8th Cir. 1975).
Schautz v. *White Lightning*, 502 F. 2d 67 (8th Cir. 1974).
Seminole Nation v. *United States*, 498 F. 2d 1368 (Ct. Cl. 1974), *cert. denied*, 420 U.S. 907 (1975).
Sessions v. *Morton*, 491 F. 2d 854 (9th Cir. 1974).
Sioux Tribe v. *United States*, 500 F. 2d 458 (Ct. Cl. 1974).
Tewa Tesuque v. *Morton*, 498 F. 2d 240 (10th Cir. 1974), *cert. denied*, 420 U.S. 962 (1975).
Turtle Mountain Band of Chippewa Indians v. *United States*, 490 F. 2d 933 (Ct. Cl. 1974).
United States v. *Analla*, 490 F. 2d 1201 (10th Cir. 1974).
United States v. *Cleveland*, 503 F. 2d 1067 (9th Cir. 1974).
United States v. *Gilbert*, 378 F. Supp. 82 (D.S.D. 1974).
United States v. *Kipp*, 369 F. Supp. 774 (D. Mont. 1974).
United States v. *Mumberg*, 378 F. Supp. 1152 (D. Mont. 1974).
United States v. *Northern Paiute Nation*, 490 F. 2d 954 (Ct. Cl. 1974).
United States v. *Washington*, 496 F. 2d 620 (9th Cir. 1974), *cert. denied*, 419 U. S. 1032 (1974).
Wisconsin Pottawatomis of Hannahville Indian Community v. *Wilsey*, 377 F. Supp. 1153 (D. Fla. 1974).

LAW REVIEW ARTICLES

Abbott, A., "Indians and the Law," 2 Harv. L. Rev. 167 (1888).

Abourezk, J., "South Dakota Indian Jurisdiction," 11 S.D.L. Rev. 101 (1966).

"Ad Valorem Taxation of Land Affecting the Five Civilized Tribes," 18 Okla. B.A.J. 94 (1947).

Adams, C., "'Citado A. Comparecer': Language Barriers and Due Process—Is Mailed Notice in English Constitutionally Sufficient?" 61 Calif. L. Rev. 1395 (1973).

"The American Indian—Tribal Sovereignty and Civil Rights," 51 Iowa L. Rev. 654 (1966).

Barker, R., "The Indian Claims Commission—The Conscience of the Nation in its Dealings with the Original American," 20 Fed. B.J. 240 (1960).

Barney, R., "Some Legal Problems Under the Indian Claims Commission," 20 Fed. B.J. 240 (1960).

Barsh, R. & J. Henderson, "Tribal Administration of Natural Resource Development," 52 N.D.L. Rev. 307 (1975).

Barsh, R., "Tribal Courts, the Model Code, and the Police Idea in American Indian Policy," 40 L. & Contemporary Problems 25 (1976).

Beaglehole, E., "Ownership and Inheritance in an American Indian Tribe," 20 Iowa L. Rev. 304 (1935).

Benge, W., "Law and Order on Indian Reservations," 20 Fed. B.J. 223 (1960).

Bennett, R., "Problem and Prospects in Developing Indian Communities," 10 Ariz. L. Rev. 675 (1968).

Berger, E., "Indian Mineral Interest—A Potential for Economic Advancement," 10 Ariz. L. Rev. 675 (1968).

Bodenheimer, B., "The Rights of Children and the Crisis in Litigation: Modification of Custody In and Out of State," 46 Colo. L. Rev. 495 (1975).

Brown, R., "The Indian Problem and the Law," 39 Yale L.J. 307 (1930).

p 142 Hank

Brown, R., "The Taxation of Indian Property," 15 Minn. L. Rev. 182 (1931).

Burnett, D., "An Historical Analysis of the 1968 Indian Civil Rights Act," 9 Harv. J. on Legis. 557 (1972).

Bysiewicz, S. & R. Van de Mark, "The Legal Status of the Dakota Woman," 3 Am. Indian L. Rev. 255 (1975).

Cain, G., "Indian Land Titles in Minnesota," 2 Minn. L. Rev. 177 (1918).

Chambers, R., "Judicial Enforcement of the Federal Trust Responsibility to Indians," 27 Stan. L. Rev. 1212 (1975).

Cockerham, W. & M. Forslund, "Attitudes Toward the Police Among White and Native American Youth," 3 Am. Indian L. Rev. 419 (1975).

Cohen, F., "The Erosion of Indian Rights, 1950–1953: A Case Study in Bureaucracy," 62 Yale L.J. 348 (1953).

Cohen, F., "Indian Rights and the Federal Courts," 24 Minn. L. Rev. 145 (1940).

Cohen, F., "Original Indian Title," 32 Minn. L. Rev. 28 (1947).

Cohen, F., "The Spanish Origin of Indian Rights in the Law of the United States," 31 Geo. L.J. 1 (1942).

Cohen, W., "Divorce Filing Fees in Indian Tribal Courts: A First Look After Boddie v. Connecticut," L. & the Soc. Ord. 541 (1970).

"Constitutional Rights of the American Tribal Indian," 51 Va. L. Rev. 121 (1965).

Coy, P., "Justice for the Indian in Eighteenth Century Mexico," 12 Am. J. of Legal Hist. 41 (1968).

Crosse, M., "Criminal and Civil Jurisdiction in Indian Country," 4 Ariz. L. Rev. 557 (1962).

Cuykendan, C., "State Taxation of the Indians—Federal Preemption of Taxation Against the Backdrop of Indian Sovereignty—McClanahan v. Arizona State Tax Commission," 49 Wash. L. Rev. 191 (1973).

Davies, G., "State Taxation on Indian Reservations," Utah L. Rev. 132 (1966).

Davis, L., "Court Reform in the Navajo Nation," 43 J. of the Am. ded. Soc'y 53 (1959).

Davis, L., "Criminal Jurisdiction over Indian Country in Arizona," 1 Ariz. L. Rev. 62 (1959).

Dolan, B., "State Jurisdiction Over Non-Indian Mineral Activities on Indian Reservations," 52 N.D.L. Rev. 265 (1975).

Dowling, T., "Criminal Jurisdiction Over Indians and Post-Conviction Remedies," 22 Mont. L. Rev. 165 (1961).

DuMars, C., "Indictment under the 'Major Crimes Act'—An Exercise in Unfairness and Unconstitutionality," 10 Ariz. L. Rev. 691 (1968).

Dumbauld, E., "An Unusual Constitutional Claim," 1 Am. J. of Legal Hist. 229 (1957).

Eads, S., "Prospecting Permits on Indian Lands: Who Benefits?" 2 Am. Indian L. Rev. 117 (1974).

"Extent of Washington Criminal Jurisdiction Over Indians," 33 Wash. L. Rev. 289 (1958).

Fannin, P., "Indian Education: A Test for Democracy," 10 Ariz. L. Rev. 661 (1968).

Field, O., "Doctrine of Political Questions in the Federal Courts pt. 6: Status of Indian Tribes," 8 Minn. L. Rev. 503 (1924).

Fiske, T. and R. Wilson, "Federal Taxation of Indian Income from Restricted Indian Lands," 10 Land and Water L. Rev. 63 (1975).

Foreman, G., "The Indian and the Law," 17 Okla. B.A.J. 82 (1946).

Fretz, B., "The Bill of Rights and American Indian Tribal Governments," 6 Nat'l. Resources J. 581 (1966).

Friedman, H., "Interest on Indian Claims: Judicial Protection of the FISC," 5 Val. V.L. Rev. 26 (1970).

Frye, R., "Analysis of the Act of August 4, 1947 Removing Restrictions from Indian Land," 18 Okla. B.A.J. 1902 (1947).

Fuller, L., "Alcoholic Beverage Control: Should the Remaining Reservations Repeal Prohibition Under 18 U.S.C. § 1161?" 3 Am. Indian L. Rev. 429 (1975).

Gabourie, F., "Justice and the Urban American Indian," 46 J. of the S.B. of Cal. 36 (1971).

Getches, D., "Lawyers and Indians," Colo. Law 9 (1972).

Gilbert, W. and J. Taylor, "Indian Land Questions," 8 Ariz. L. Rev. 102 (1966).

Goldberg, C., "Public Law 280: The Limits of State Jurisdiction over Reservation Indians," 22 U.C.L.A. L. Rev. 535 (1975).

Goodman, J. and G. Thompson, "The Hopi-Navajo Land Dispute," 3 Am. Indian L. Rev. 397 (1975).

Goodrich, C., "The Legal Status of the California Indian," 14 Calif. L. Rev. 83 (1926).

Gramen, M. and D. Somers, "Indian Bill of Rights," 5 Sw. V. L. Rev. 139 (1973).

Green, L., "Canada's Indians—Federal Policy, International and Constitutional Law," Paper presented to the Soc'y of Int'l Law (1969).

Haddon, S., "Access and Wharfage Rights and the Territorial Extent of Indian Reservation Bordering on Navigable Water—Who Owns the Bed of Flathead Lake?" 27 Mont. L. Rev. 55 (1965).

Higgins, F., "International Law Consideration of the American Indian Nations by the United States," 3 Ariz. L. Rev. 74 (1961).

Hobbs, C., "Indian Hunting and Fishing Rights," 32 Geo. Wash. L. Rev. 504 (1964).

Hobbs, C., "Indian Hunting and Fishing Rights II.," 37 Geo. Wash. L. Rev. 1251 (1969).

Houghton, N., "The Legal Status of Indian Suffrage in the United States," 19 Calif. L. Rev. 507 (1931).

"The Indian Battle for Self-Determination," 58 Calif. L. Rev. 445 (1970).

"Indian Bill of Rights and the Constitutional Status of Tribal Governments," Harv. L. Rev. 1343 (1969).

"Indian Fishing Rights," 8 Willamette L. J. 248 (1972).

"Indians: Better Dead than Red?" 42 Cal. L. Rev. 101 (1968).

"Indians, Water and the Arid Western States—A Prelude to the Pelton Decision," 5 Utah L. Rev. 495 (1956).

Johnson, R., "The States versus Indian Off-Reservation Fishing: A United States Supreme Court Error," 47 Wash. L. Rev. 207 (1972).

Kawashima, Y., "Legal Origins of the Indian Reservation in Colonial Massachusetts," 13 Am. J. of Legal Hist. 42 (1969).

Keller, R., "William O. Douglas, the Supreme Court, and the American Indians," 3 Am. Indian L. Rev. 333 (1975).

Kelly, J., "Indians—Extent of the 'Fair and Honorable Dealings' Section of the Indian Claims Commission Act," 15 St. Louis L.J. 491 (1971).

Kelly, W., "Indian Adjustment and the History of Indian Affairs," 10 Ariz. L. Rev. 559 (1968).

Kepner, G., "Drums Along the Power Ways," 23 Alb. L. Rev. 135 (1959).

Kerr, J., "Constitutional Rights, Tribal Justice, and the American Indian," 18 J. of Pub. Law 311 (1969).

Knoepfler, K., "Legal Status of American Indian and His Property," 7 Iowa L. Bull. 232 (1922).

Koons, M. & H. Walker, "Jurisdiction over Indian Country in North Dakota," 36 N.D.L. Rev. 51 (1960).

Krieger, H., "Principles of the Indian Law and the Act of June 18, 1934," 3 Geo. Wash. L. Rev. 279 (1935).

Lazarus, A., "The Alaska Native Claims Settlement Act: A Flawed Victory," 40 L. and Contemporary Problems 132 (1976).

Lazarus, A., "Indian Rights Under the Federal Power Act," 20 Fed. B.J. 217 (1960).

"Legal Status of the Indians," American Bar Association Reports 261 (1891); William B. Hornblower.

McArthur, C., "Indian Land Law," 30 Okla. B.A.J. 2168 (1959).

McKevitt, T., "The Sovereign and Consent," 12 Land and Nat. Resources Div. J. 117 (1974).

McLoone, J., "Indian Hunting and Fishing Rights," 10 Ariz. L. Rev. 725 (1968).

Manley, H., "Indian Reservation Ownership in New York," 32 N.Y.S.B. Bull. 134 (1960).

Martone, F., "American Indian Tribal Self-Government in the Federal System: Inherent Right or Congressional License?" 51 Notre Dame Law. 600 (1976).

"Minnesota's Chippewas: Treaties and Trends," 39 M[illegible]n. L. Rev. 853 (1955).

"Monetary Remedies Against the State in Federal Question Cases," 68 Nw. V.L. Rev. 544 (1973).

Muskrat, J., "The Indians—An Analysis and Proposal," 28 Legal Aid Brietease 187 (1970).

Nash, D., "Tribal Control of Extradition from Reservations," 10 Nat. Resources J. 626 (1970).

"Need for a Federal Policy in Indian Economic Development," 2 N.M.L. Rev. 71 (1972).

Nickeson, S., "The Structure of the Bureau of Indian Affairs," 40 L. & Contemporary Problems 61 (1976).

Nutten, W., "Probate Problems of the American Indian," 7 Real Prob. & Tr. J. 495 (1972).

Olquin, E. and A. Utton, "The Indian Rural Poor: Providing Legal Services in a Cross-Cultural Setting," 15 Kan. L. Rev. 487 (1967).

Oliver, R., "The Legal Status of American Indian Tribes," 38 Ore. L. Rev. 193 (1959).

Olson, T., "Indian—State Jurisdiction over Real Estate Developments on Tribal Lands," 2 N.M.L. Rev. 81 (1972).

Pease, G., "Constitutional Revision—Indians in the New Mexico Constitution," 9 Nat. Resources J. 466 (1969).

Pederson, A., "Decision of Indian Tribal Court Held Reviewable through Federal District Court Habeas Corpus Proceeding," 26 Mont. L. Rev. 240 (1965).

Pound, C., "Nationals without a Nation: The New York State Tribal Indians," 22 Colum. L. Rev. 97 (1922).

Powell, T. "State Inheritance Taxes on Indians: A Critique of Oklahoma Tax Commission v. United States," 44 Colum. L. Rev. 836 (1944).

"The Power of a State to Impose an Income Tax on Reservation Indians," 6 Willamette L.J. 515 (1970).

Price, M., "The Tax Exemption of Native Lands under Section 21(d) of the Alaska Native Claims Settlement Act," 6 U.C.L.A. Alas. L. Rev. (1976).

Price, M., "Felix Cohen's Handbook of Federal Indian Law," 21 Cath. V.L. Rev. 229 (1971).

Price, M., "Lawyers on the Reservation: Some Implications for the Legal Profession L. & the Soc. Ord. 161 (1969).

Pritchett, L., "Problems of State Jurisdiction over Indian Reservations," 13 De Paul L. Rev. 74 (1963).

Ranquist, H., "The Effect of Changes in Place and Nature of Use of Indian Rights to Water Reserved under the 'Winters Doctrine'," 5 Nat. Resources Law. 34 (1972).

"Regulation of Treaty Indian Fishing," 43 Wash. L. Rev. 670 (1968).

Reiblich, G., "Indian Rights under the Civil Rights Act of 1968," 10 Ariz. L. Rev. 617 (1968).

Reid, J. P., "Conflict and Injustice: A Discussion of Francis Paul Prucha's 'American Indian Policy in the Formative Years,'" 39 N.D.L. Rev. 51 (1963).

Reid, J., "Law and the Indians on the Arkansas Frontier: 'Stand Stripped, but Strongly Nerved,'" 18 Ark. L. Rev. 1 (1964).

Reynolds, O., "Zoning the Reservation—Village of Euclid Meets Aqua Caliente," 2 Amer. Indian L. Rev. 1 (1974).

Richards, C., "Federal Jurisdiction over Criminal Matters Involving Indians," 2 S.D.L. Rev. 48 (1957).

"'Right of Tribal Self-Government' and Jurisdiction over Indian Affairs," Utah L. Rev. 291 (1970).

Rosenfelt, D., "Indian Schools and Community Control," 25 Stan. L. Rev. 489 (1973).

"Ross, R., "*Cultural Integrity and American Indian Education*," 11 Ariz. L. Rev. 641 (1969).

Roy, E., "Economic Survey of American Indians in Louisiana," 3 Am. Indian J. 11 (1973).

"*Ruiz v. Morton:* Federal Welfare for Non-Reservation Indians," Utah L. Rev. (1973).

Russell, I., "The Indian Before the Law," 18 Yale L. J. 328 (1909).

Schaab, W., "Indian Industrial Development and the Courts," 8 Nat. Resources J. 303 (1968).

Schifter, R., "Trends in Federal Indian Administration," 15 S.D.L. Rev. 1 (1970).

Schmeiser, D., "Indians, Eskimos and the Law," 33 Sask. L. Rev. 19 (1968).

Schmidhauser, J., "The Struggle for Cultural Survival: The Fishing Rights of the Treaty Tribes of the Pacific Northwest," 52 Notre Dame Law. 30 (1976).

Sclar, L., "Participation by Off-Reservation Indians in Programs of the B.I.A. and I.H.S.," 33 Mont. L. Rev. 187 (1972).

Selander, K., "Section Z of the Indian Claims Commission Act," 15 Geo. Wash. L. Rev. 388 (1947).

Seymour, F., "Land Titles in the Pueblo Indian Country," 10 A.B.A.J. 36 (1924).

Shakman, M., "Federal Jurisdiction: A General View," 33 Md. L. Rev. 70 (1968).

Sonosky, M., "Oil, Gas and Other Minerals on Indian Reservations," 20 Fed. B.J. 230 (1960).

Sparks, J., "The Indian Stronghold and the Spread of Urban America," 10 Ariz. L. Rev. 706 (1968).

Staats, H., "Some Aspects of the Legal Status of Canadian Indians," 3 Osgoode Hall L.J. 36 (1964).

"State Extension of Cigarette Sales Tax to Indians," 11 Idaho L. Rev. 101 (1974).

Strong, S., "Federal District Court Has No Jurisdiction over a Lease of Tribal Land to a Non-Indian," 27 Mont. L. Rev. 198 (1966).

Swan, R., "Indian Legal Services Programs: The Key to Red Power?" 12 Ariz. L. Rev. 594 (1970).

"Systematic Discrimination in the Indian Claims Commission: The Burden of Proof in Redressing Historical Wrongs," 57 Iowa L. Rev. 1300 (1972).

Taylor, B., "Indian Manpower Resources: The Experiences of Five Southwestern Reservations," 10 Ariz. L. Rev. 579 (1968).

Taylor, P., "Development of Tripartite Jurisdiction in Indian Country," 22 Kan. L. Rev. 351 (1974).

"Taxation: Immunity: Lessee of Restricted Indian Lands," 3 Okla. L. Rev. 468 (1950).

"Taxation—Indians—Tax on Income Received from Sale of Mineral Resources," 24 Geo. L. J. 486 (1936).

Thompson, J., "Law Amongst the Aborigins of the Mississippi Valley," 6 Ill. L.O. 204 (1924).

Tureen, T. & F. O'Toole, "State Power and the Passamaquoddy Tribe: 'A Gross National Hypocrisy?'" 23 Maine L. Rev. 1 (1971).

Udall, S., "The State of the Indian Nation—An Introduction," 10 Ariz. L. Rev. 552 (1968).

Vance, J., "The Congressional Mandate and the Indian Claims Commission," 45 N.D.L. Rev. 325 (1968–69).

Veeder, W., "Indian Water Rights in the Upper Missouri River Basin," 48 N.D.L Rev. 617 (1972).

Veeder, W., "Winters Doctrine Rights—Keystone of National Programs for Western Land and Water Conservation and Utilization," 26 Mont. L. Rev. 149 (1965).

Vollman, T., "Criminal Jurisdiction in Indian Country: Tribal Sovereignty and Defendants' Rights in Conflict," 22 Kan. L. Rev. 387 (1974).

Wilkinson, G., "Indian Tribal Claims before the Court of Claims," 55 Geo. L.J. 511 (1966).

Willacy, A., "Contract Approval: Attorneys and Indians," 15 How. L.J. 149 (1968).

Williams, E., "Too Little Land, Too Many Heirs—The Indian Heirship Land Problem," 46 Wash. L.Rev. 709 (1971).

Wise, J., "Indian Law and Needed Reforms," 12 A.B.A.J. 37 (1926).

Withington, W., "Kickapoo Titles in Oklahoma," 23 Okla. B.A.J. 1751 (1952).

Withington, W., "Land Titles in Oklahoma under the General Allotment Act," 31 Okla. B.A.J. 2320 (1960).

Wolf., R., "Needed: A System of Income Maintenance for Indians," 10 Ariz. L.Rev. 597 (1968).

Yankwich, L., "Law and Order under the Incas," 22 So. Cal. L.Rev. 133 (1949).

Young, R., "Interagency Conflicts of Interest: "The Peril to Indian Water Rights," L. & Soc. Ord. 313 (1972).

Ziontz, A., "In Defense of Tribal Sovereignty: An Analysis of Judicial Error in Construction of the Indian Civil Rights Act," 20 S.D.L. Rev. 1 (1975).

93-440—78——11

REPORTS ISSUED BY THE GENERAL ACCOUNTING OFFICE, COMPTROLLER GENERAL OF THE U.S.

Administration of programs for aid to public school education of Indian children being improved, B–161468, 5/28/70.

Administration of withdrawal activities by the Bureau of Indian Affairs, Dept. of the Interior, March 1958, 8/58.

Assessment of Teacher Corps at Northern Arizona University and participating schools on the Navajo and Hopi Reservations, B–164031 (1), 5/13/71.

Better overall planning needed to improve the standard of living of White Mountain Apaches of Arizona, B–114868, 8/12/75.

Bureau of Indian Affairs contracts for automatic data processing, management services, and contracts awarded to the Colorado River Tribes, B–114868, 12/8/73.

Changes needed in Revenue Sharing Act for Indian Tribes and Alaskan Native Villages, GGD–76–64, 5/27/76.

Coordination needed in the award of financial aid to Indian students, B–114868, 9/8/75.

Effectiveness of the Bureau of Indian Affairs land management activities on three reservations in South Dakota, B–114868, 6/4/75.

Federal assistance to Quechan Indian Tribe for controlled environmental agricultural program, B–130515, 5/13/74.

Federally owned submarginal land within the Bad River Reservation in Wisconsin proposed to be held in trust for the Bad River Community, B–147652, B–147655, 5/23/72.

Federally owned submarginal land within the Fort Totten Reservation in North Dakota proposed to be held in trust for the Devils Lake Sioux Tribe, B–147652, B–147655, 3/24/72.

Financial and management activities of the Lumni Indian Business Council, Marietta, Washington, B–120214, 6/4/71.

Follow-up letter to Chairmen, House and Senate Interior and Insular Affairs Committees on selected contracts, purchase orders and grants awarded to Indian tribes and organizations during fiscal year 1971, B–114686, 1/2/75.

P. 152 - blank

Follow-up on certain matters discussed in our report entitled "Improvements Needed in the Assessment and Collection of Penalties—Federal Coal Mines Health and Safety Act of 1969," B–170686, 12/22/72.

Funding of programs benefiting Indians, fiscal years 1972–1973, B–114868, 7/11/73.

Funds provided to the National Tribal Chairman's Association by Federal agencies in fiscal years 1972 and 1973, B–114868, 1/18/74.

Impact of grants to Indian tribes under the Emergency Employment Act of 1971, B–163922, 3/14/73.

Improvements achieved in the management of supplies by the Bureau of Indian Affairs, B–114868, 7/31/68.

Improving federally assisted business development of Indian reservations, B–114868, 6/27/75.

Increased income could be earned on Indian trust moneys administered by the Bureau of Indian Affairs, B–114868, 4/28/72.

Indian natural resources—opportunities for improved management and increased productivity, Part I: forest land, rangeland, and cropland, B–114868, 8/18/75.

Indian natural resources—Part II: coal, oil, and gas, better management can improve development and increase Indian income and employment, B–114868, 3/31/76.

Ineffective HUD monitoring of Indian Housing Authorities activities, B–114868, 10/4/74.

Information in federal programs which benefit American Indians, B–114868, 8/28/75.

Information on federally owned land in Oregon set aside for use by the Burns Paiute Indian Colony, B–147652, B–147655, 9/12/72.

Information on federally owned submarginal land within the Blackfeet Reservation in Montana, B–147652, B–147655, 12/19/72.

Information on federally owned submarginal land within the Cheyenne River Reservation in South Dakota, B–147652, B–147655, 1/26/73.

Information on federally owned submarginal land within and adjacent to the Crow Creek Reservation in South Dakota, B–147652, B–147655, 2/15/73.

Information on federally owned submarginal land within or near the Fort Belknap Reservation in Montana, B–147652, B–147655, 10/12/72.

Information on federally owned submarginal land within or adjacent to the Fort Hall Reservation in Idaho, B–147652, B–147655, 11/3/72.

Information on federally owned submarginal land within the Fort Peck Reservation in Montana, B–147652, B–147655, 2/15/73.

Information on federally owned submarginal land within or near the Lac Courte Oreilles Reservation in Wisconsin, B–147652, B–147655, 2/15/73.

Information on federally owned submarginal land within the L'Anse Reservation in Michigan, B–147652, B–147655, 9/8/72.

Information on federally owned submarginal land within the Lower Brule Reservation in South Dakota, B–114868, 2/13/73.

Information on federally owned submarginal land in Oklahoma set aside for use by the Cherokee Tribe in Oklahoma, B–147652, B–147655, 2/2/73.

Information on federally owned submarginal land within the Pine Ridge Reservation in South Dakota and Nebraska, B–147652, B–147655, 2/7/73.

Information on federally owned submarginal land within the Rosebud Reservation in North Dakota and South Dakota, B–147652, B–147655, 2/13/73.

Information on federally owned submarginal land proposed to be held in trust for the Stockbridge Munsee Indian Community in Wisconsin, B–147652, B–147655, 10/27/71.

Information on federally owned submarginal land within the White Earth Reservation in Minnesota proposed to be held in trust for the Minnesota Chippewa Tribe, B–147652, B–147655, 10/27/71.

Land leases entered into by the Navajo and Hopi Indian tribes, B–177079, 1/29/74.

Land leases on the Fort Hall Indian Reservation in Idaho, B–114868, 5/31/74.

Land management activities on three Indian reservations in South Dakota can be improved, Bureau of Indian Affairs, B–114868, 6/4/75.

Letter report on selected activities of Indian Health Services, B–164031(2), 7/9/70.

Medical research activities and sterilization of American Indians, B–164031(5), 11/4/76.

Monitoring HUD investigation of the Pueblo of Laguna Housing Authority, B–176794, 7/13/73.

The native enrollment and village eligibility provisions of the Alaska Native Claims Settlement Act, B–180940, 12/13/74.

New Navajo construction activities on the Navajo and Hopi Joint-Use Area, B–114868, 3/4/74.

Non-discrimination provision of the Revenue Sharing Act should be strengthened and better enforced, B–146285, 6/2/76.

Opportunities for increasing effectiveness of federally assisted business and commercial development efforts on Indian reservations, B–114868 6 27/75.

Opportunity to improve Indian education in schools operated by the Bureau of Indian Affairs, B–114868, 4/27/72.

Possible irregularities in the use of federal funds in the administration of the Chemawa Indian School in Marion County, Oregon, B–114868, 11/20/72.

Possibilities of increased use of federal hospitals by Indian Health Service-Portland Area Office, B–164031(2), 8/1/70.

Progress and problems in providing health services to Indians, B–164031(2), 3/11/74.

Review of Bureau of Indian Affairs contracts for Automatic Data Processing Management Services, B–144868, 12/6/73.

Review of certain matters involving the disruptions at Wounded Knee, South Dakota, B–114868, 5/7/73.

Review of programing, budgeting, accounting, and reporting activities of the Bureau of Indian Affairs, Department of the Interior, B–114868, 11/19/58.

Review of proposed legislation for conveyance to certain Indian tribes and groups of submarginal land administered by the Bureau of Indian Affairs, B–147652, B–147655, 6/72.

Review of the Bureau of Indian Affairs use of band analysis in determining the amount of Johnson-O'Malley (JOM) funds distributed to Indian tribes in Arizona, B–161468, 4/25/75.

Review of the construction of housing projects built under HUD-supported programs on the Blackfeet Reservation, B–114868, 12/27/74.

Selected activities of the Indian Health Service, 7/9/70.

Selected contracts, purchase orders, and grants awarded to Indian tribes and organizations during fiscal year 1971, B–114868, 7/7/72.

Settlement of accounts of accountable officers at the Aberdeen Area Office-Indian Health Service, B–164031(2), 3/29/71.

Slow progress in eliminating substandard Indian housing, B–114868, 10/12/71.

Slow progress of federal and state housing programs in meeting housing needs in rural Alaska, B–118718, 9/24/74.

Spending for Indian programs in fiscal year 1968 and increases through fiscal year 1973, B–114868, 5/7/73.

Study of health facilities construction costs, B–164031(3), 11/27/72.

Survey of the Department of Housing and Urban Development's low rent public housing program at two Indian housing authorities . . ., B–114868, 10/4/74.

Survey of federal efforts in Alaska to meet the national housing objectives, B–118718, 9/24/74.

Update of information concerning funds provided to the National Tribal Chairmen's Association (NTCA) by federal agencies in fiscal years 1972 and 1973, and since July 1973, B–114864, 1/18/74.

Vocational training contracts awarded to Engineering Drafting School, Inc., Denver, Colorado, B–169333, 8/18/72.

APPENDIX C

FORMAT FOR PROPOSED ANNUAL REPORT ON INDIAN AFFAIRS

RECOMMENDED IN CHAPTER TWO

(159)

P. 158 - blank

93-440 O - 78 - 12

PART I—INDIAN TREATIES, AGREEMENTS, AND EXECUTIVE ORDERS

(This part would be based on Kappler's Laws and Treaties Royce's Indian Land Cessions, and the National Archives' List of Documents Concerning the Negotiation of Ratified Indian Treaties. The organization could place the treaties, agreements and executive orders in chronological order with the maps and lists of related documents with the pertinent treaty.)

PART II—HISTORY, LEGISLATION, AND CURRENT CONDITIONS ON INDIAN RESERVATIONS

NOTE.—The following would be a "form" report filled out by the Federal Officer in charge each year. It is based on a "questionnaire on a reservation profile" drafted by the Bureau of Indian Affairs a few years ago. Some changes have been made.

A. NOMENCLATURE

1. *Proper name of tribes.*—If unorganized, the generally accepted name.

B. LAND

1. *Location.*—Describe the reservation's geographic location within a State or States and county or counties. Describe the proximity of trade centers. identifying the same and giving a general statement concerning size, population, and industry.

2. *Climate.*—State the length of the growing season, the length of the tourist or recreational season, and give average temperature ranges and average annual precipitation.

3. *Historical.*—Give the initial date of establishment of the reservation and groups and/or tribes for whom established, and citations to treaties, laws, and executive orders and original and present land area of the reservation.

4. *Ownership.*—(a) Tribal (trust and fee separately), trust allotted, Government-owned (totals as of June 30, last fiscal year). (b) Characteristics of ownership. Show the pattern of ownership, whether it is checkerboarded, scattered or contiguous. Make a brief comment on the possible improvement in the characteristics of ownership by unitization, syndication, etc.

5. *Present Land Use.*—Include the major categories of land use on the reservation with an average by percentage of each type, e.g. farming, grazing, commercial, etc. The percentage of Indian and non-Indian use of Indian land should also be given. The various categories of use should include a breakdown between individual Indian trust land and tribal lands.

P.159 - blank

6. *Heirship.*—Number and percentage breakdown of allotted trust tracts belonging to a single owner, 2–10 owners, over 10 owners. Number of probate cases completed during the last fiscal year and the number pending. Total acreage in heirship status. Describe the heirship problem on the reservation.

7. *Potential.*—Give brief statement on reservation land potential. Describe tribal land acquisition program, if any. Indicate income from tribal land purchases made during the last year and the purchase price.

8. *Transportation.*—Describe the major highways giving access to the reservation and the intra-reservation roads. How many miles of roads are there on the reservation? How many miles of roads are Bureau maintained? What jurisdiction(s) maintain the balance? Indicate commercial airports and railroads nearest to the reservation. List by percentage use of transportation, such as truck, car, horse, public, etc. Does the present adequacy or inadequacy of the road system hinder or help economic development of the reservation or the Indian's work opportunities?

C. Population

1. *Resident Total.*—(a) Give the total number of Indian residents on the reservation, number of families, average number per family, average age, and other pertinent data. (b) Provide similar information for Indians residing adjacent to the reservation, i.e., service area population. (c) State briefly population trends. (d) Provide total number of adults (over 18), subdivided by sex, and the total number of minors. (e) Provide the total number of Indians residing on the reservation who are members of tribes other than those in residence.

2. *Tribal Membership.*—(a) Give total membership of tribe at present time. If an estimate, indcate, (b) Date of latest tribal roll.

D. Tribal Administration and Government

1. *Governing Body.*—Give history of the tribal governing body, its functions, and membership.

2. *Budget.*—Give income and expenditures for the last fiscal year differentiating between tribal and other funds.

3. *Member Civic Participation.*—Describe the interest and activity of tribal members in tribal or social affairs and off-reservation, non-Indian affairs.

E. Disposition of Judgment Awards

1. *Past.*—Describe and evaluate the use of any judgment awards in the past.

2. *Current.*—How does the tribe propose to use funds from the current award? (Attach any resolutions or program outlines.)

F. Economic Activities and Potentials

1. *Reservation Development.*—Indicate both resources development and industrial or commercial potential for the reservation.

2. *Labor Force.*—(a) List the number of resident Indians employed on or near the reservation. (b) List the number of unemployed under

the heading temporary, seasonal, and permanent. A breakdown by sex should be included. Also distinguish between those residing on the reservation, and those adjacent to.

3. *Employment Opportunities.*—(a) Briefly state the livelihood source history of the Indian population. (b) Discuss the livelihood sources for non-Indians on the reservation and in adjacent areas.

4. *Income from Reservation Resources.*—(a) List the total income from surface leases of all types, both to the Indians and non-Indians. If free use, or less than fair market value, is approved to Indian operators, calculate the rental rate on the average income from non-Indian use. (b) For grazing permits, use the same as above. (c) For timber, give the gross dollar income from stumpage sold; give estimated value of free-use forest products harvested. (d) For minerals include income from leases, bonuses, royalties, etc. (e) For commercial recreation, give the net profit from Indian and tribal recreational enterprises. (f) Under business enterprises, list the net profit from tribal enterprises other than recreation.

5. *Income from Employment for Reservation Residents.*—(a) This should include a breakdown of those self-employed, and the Indian operator's income, less economic rent for land and operating expenses. (b) For those self-employed, other than in agricultural operations, calculate the disposable income from the business. (c) Other than self-employed should include all income from wages for Indians living on and working on, or living on and working near the reservation. This should include all types of employment (Federal Government, tribal, industrial, and private business). A breakdown of major employers by skilled, semi-skilled, or unskilled workers should be included. (d) Estimate the value of services received from the Federal Government that a non-Indian in the surrounding area would have to pay for.

6. *Income from Resources and Employment.*—For the purposes of comparison, the total income from resources and employment should be divided by the number of families on the reservation to indicate the average amount per family that can be expected from these sources.

7. *Median Effective Family Buying Income in Surrounding Counties.*—Include a comparison of on-reservation income per family with the income of non-Indians living in counties surrounding the reservation. This appears to be the best measure of income that should be expected for Indian reservation residents. A national or state income level is too general and has less application to the program objectives.

G. Health

1. *U.S. Public Health Service.*—What facilities are provided by the United States Public Health Service?

2. *Adequacy.*—Are these facilities adequate to meet the health needs of Indians?

3. *Use.*—Are the facilities fully used by Indians?

4. *Needs.*—What are the major health needs of the Reservation?

5. *Water and Sanitation.*—Describe briefly the availability of water and sanitary facilities to meet normal needs for both family and community.

6. *Comparison.*—How do each of these services compare with those of non-Indian families in the surrounding areas?

H. Welfare

1. *General Assistance.*—Give the BIA general assistance for the last fiscal year by number of cases, persons, and amount, and a breakdown of high and low months for such assistance.

2. *Other Financial Assistance.*—Any Federal, State, or county assistance to Indians received through county Departments of Public Welfare. Include types of cases, total cases, and total number of persons involved.

3. *Commodity Programs.*—The numbers involved and the cost of any commodity program.

4. *Summary.*—Give total of tribal members receiving assistance and indicate categories.

5. *Attitudes.*—What is the attitude of State and local officials regarding welfare to Indians?

I. Education

1. *Level.*—Give the average educational level for the following age groups in terms of the highest grade completed.

	Male	Female
18 to 25 yrs. inclusive		
26 to 45 yrs		
46 yrs and over		

2. *School Age Population.*—Give the numbers of resident tribal members in the following age groups.

	Male	Female
1 to 5 yrs. inclusive		
6 to 13 yr		
14 to 18 yr		
19 to 21 yr		

3. *School Facilities.*—Give the following data regarding school facilities on the reservation (last fiscal year).

System	Number of schools	Capacity	Grades served	Indian enrollment	
				Elementary	Secondary
Public schools					
BIA schools					
Mission schools					
Other schools					

4. *Special.*—(a) Describe briefly participation of Indian parents in school affairs. (b) What is the attitude of tribal members toward education? (c) Special problems related to school attendance, dropouts, etc. (d) Special services such as counseling, adult education, etc., avail-

able or needed in local schools and communities. (e) Scholarship aid (if any) provided by the tribe.

5. If available, provide the same for 1, 2, 4 (a) and (c) concerning the non-Indian population in surrounding area.

J. Housing

1. *Existing Conditions.*—(a) Briefly state the adequacy of existing housing. (b) Give the percent of Indian homes with electricity and telephones. (c) Briefly describe the availability of water and sanitary facilities. (d) Provide the same information for non-Indians of surrounding areas.

2. *Housing Authority.*—Has the tribe established a housing authority?

3. What are current plans for (a) new homes, and (b) repair of homes?

K. Relocation

1. *Employment Assistance.*—List the number of units and people assisted in placement in direct employment through the employment assistance programs.

2. *Returnees.*—Estimate by percentage those who have returned from relocation and the major reason for returning.

L. Readiness of Indians to Manage Their Own Affairs

1. *Problem Areas.*—Evaluate the capacity of the members of this particular tribe to manage their own affairs. Discuss any major problem areas.

2. *Cultural Isolation.*—This entails an evaluation of participation by Indians on or off the reservation in what may be described as distinctly Indian culture (including language use, religious or secular ceremonies, social mores relating to an older Indian culture, etc.) The proportion of Indians (irregardless of degree of blood) contained in the "core" of cultural Indians constitutes a good measure of the degree of acculturation experiences by the tribe.

3. *Non-Indian Community.*—Evaluate the relationship of this tribe or reservation to the non-Indian community, i.e., local, county and State. This includes not only attitudes but abilities of these governmental units to carry any economic services necessary for future development.

4. *Bureau Appropriations.*—Provide breakdown of appropriations, by activity, for three fiscal years: (a) Actual expenditures last fiscal year; (b) Funds programmed current fiscal year (or expended where applicable); (c) Funds programmed next fiscal year.

M. Other Government Programs

1. List all other Government programs in operation on the reservation or assisting the reservation population.

2. Briefly describe each program, the number of participants, etc.

PART III—FEDERAL GOVERNMENT INDIAN PROGRAMS, ALL AGENCIES [1]

This part would be based on a form annual report for all agencies, bureaus, and departments, in the Federal Government responsible for any aspect of Indian programs. The reports would contain—as indicated in the outline below—specific information on the program and expenditures. Should the *Program Information Act* (H.R. 3860, Representative Roth) become law, Section 11 would prohibit all other compendiums of program information "in order to make the catalog the exclusive source of such program information both for the public and for the program officers." In developing a proposed catalog of Indian program information, every possible attempt could be made to incorporate the findings and recommendations of the Roth Study in determining the information to be included and the format as well. This could be expected to result in an efficiently organized and extremely useful compilation with a minimum of unnecessary duplication of effort. If H.R. 3860 is enacted, this part would simply be an extract of all Indian programs from the proposed *Catalog of Federal Assistance Programs.*

A. Identification of organization

1. Full legal name of program.
2. List each administrative level between the program and the highest agency or department.
3. Enabling legislation.

B. Funding

1. Actual expenditures for the past fiscal year.
2. Appropriations for the present fiscal year.

C. Purposes

1. Briefly outline the programs.
2. Are there any plans for expanding or reducing the programs?
3. What has been the reaction of the Indians or Tribes?
4. Are there any other Government programs closely related to this one?
5. What are the eligibility requirements for participation in the program?

D. Offices

1. List headquarters office, contact officer, and telephone number.
2. List all field offices, contact officers, and telephone numbers.

E. Personnel

1. How many employees were there on the last day of the preceding fiscal year?
2. Of this number how many were full time and how many part time?

[1] The idea for this part came from the Roth Study entitled *Listing of Operating Federal Assistance Programs as Compiled During the Roth Study* by the Honorable William V. Roth (Congressional Record, June 25, 1968, pp. H5441–5585; and House Document 399, 90th Congress, 2d session). This catalog has been an extremely useful reference tool and the writer has benefited not only from the information contained but the quick reference organization and indexing of the report itself.

3. What were the total man-years expended in the previous fiscal year?

4. What was the total administrative overhead of supplying, equipping, and servicing those man-years?

F. Publications

1. List all reports published during the past fiscal year by author, title, and pagination.

2. Provide a brief summary for each publication.

PART IV—STATISTICAL COMPILATION ON INDIANS AND INDIAN RESOURCES

A. Population

1. Total Indian population in the United States (Bureau of the Census).

2. Reservation population (Bureau of Indian Affairs):

(*a*) Living on Reservations.

(*b*) Living on trust lands (not on Reservations).

(*c*) Living near Reservations.

3. Service population:

(*a*) Total "service" population and definition of same (Bureau of Indian Affairs).

(*b*) Total "service" population and definition of same (Division of Indian Health, Public Health Service).

B. Health

1. Infant death rate compared to non-Indian.

2. Life expectancy for Indians as compared to non-Indians.

3. General statement on the Indian's health today in comparison with the non-Indian.

4. Programs.

(*a*) How many hospitals there are (location, number of beds, personnel service population, etc.).

(*b*) How many health centers (location, personnel, service population, etc.).

(*c*) How many health stations (location, personnel, service population, etc.).

(*d*) How many beds are available in community hospitals built through Public Law 85–151 (name of hospital and location).

C. Employment and unemployment

Total population:

1. Between the ages of 18 and 55 able to work;

(*a*) On the reservation, male, female.

(*b*) Near the reservation, male, female.

2. Working full time.

(*a*) On the reservation, male, female.

(*b*) Near the reservation, male, female.

3. Working part time.

(*a*) On the reservation, male, female.

(*b*) Near the reservation, male, female.

4. Between the ages of 18 and 55, physically able and wanting to work, now unemployed.

(*a*) Comparison with non-Indian labor force in area.

D. Education

1. *Level.*—Average educational level for the following age groups in terms of the highest grade completed:

	Male	Female
18 to 25 yr inclusive		
26 to 45 yrs		
46 yr and over		

2. *School Age Population.*—Number of resident tribal members in the following age groups:

	Male	Female
1–5 yr inclusive		
6 to 13 yr		
14 to 18 yr		
19 to 21 yr		

3. *School facilities.*—On the reservation.

System	Number	Capacity	Enrollment	
			Elementary	Secondary
Public				
BIA				
Mission				
Other				

E. Land

1. Total acreage of tribal land.
2. Total acreage of tribal *fee* land.
3. Total acreage of tribal *trust* land.
4. Total acreage of individual trust land.
5. Total acreage of individual trust land in heirship status:
   (*a*) Number of tracts.
   (*b*) Number with 2–10 owners.
   (*c*) Number with more than 10 owners.
6. Total acreage of Federal lands on Indian reservations.

F. Law and Order

1. Number of reservations under State law.
2. Number of reservations having:
   (*a*) Traditional courts.
   (*b*) Courts of Indian Offenses.

PART V—STATE AGENCIES AND PRIVATE ORGANIZATIONS IN THE FIELD OF INDIAN AFFAIRS

A. State Agencies

NOTE.—General statement on each state agency, operation, staff, budget, programs, publications, etc.

B. Private Organizations

NOTE.—General statement on each private organization, officers, operation, budget, publications, programs, etc.

PART VI—PUBLICATIONS AND REPORTS IN THE FIELD OF INDIAN AFFAIRS

NOTE.—Those published on a continuing basis by all levels of Government concerned with the Indian problem, the private organization publications, tribal newspapers, etc. The intent would be to annotate each publication indicating content and providing thereby a comprehensive list of publications containing current information from all over the United States.

APPENDIX D

FEDERAL PROGRAMS SERVING INDIANS

CITED IN CHAPTER SIX

(171)

P. 170 - blank

P172- blank

DEPARTMENT OF AGRICULTURE

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian Land Acquisition Loan Program (under FmHA)	To assist Indians in the purchase of land within reservations and Alaskan Indian communities	Federally recognized Indian and Alaskan Indian communities	Insured loans	Public Law 91-229 (4/1/70)	FmHA fact sheet - Indian tribal loans for purchase of lands." Feb., 1973.	72-$2,000,000 73-$3,300,000 74-$9,850,000 Estimates: 75-$10,000,000 76-$10,000,000
Set-Asides:			DEPARTMENT OF COMMERCE			
Economic Development Planning Assistance (Economic Development Admin.)	To develop Indian tribal planning capabilities to assure effective utilization of resources in creating full-time permanent jobs.	Indian reservations with substantial need for planning assistance.	One year, renewable project grants.	Public Works and Economic Development Act of 1965; P.L. 89-136, as amended by P.L. 90-103, 91-123, 91-304, 92-65, 93-46; 42 U.S.C. 3151(b), 3152; and P.L. 93-423.	Literature of the Publications Division, EDA, U.S. Dept. of Commerce	72-$ 871,182 73-$2,971,475 74-$1,128,668 75-$3,200,000 Estimate: 76-$4,000,000
Economic Development - Public Works Impact Projects	To provide immediate useful work to unemployed and under-employed persons in designated project areas.	States and local subdivisions and Indian tribes.	Project grants.	Public Works and Economic Development Act of 1965; P.L. 89-136, as amended by P.L. 92-65, 93-46; 42 U.S.C. 3131, 3135, 3161, 3171.	No regulations; literature.	74-$31,232,000 74 set-aside- $ 6,780,000 76-no funds sought.

DEPARTMENT OF COMMERCE (cont'd.)

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Economic Development - Technical Assistance	To solve problems of economic growth in areas of substantial need.	Indian tribes	Project grants and contracts; dissemination of technical information.	Public Works and Economic Development Act of 1965; P.L. 89-136, as amended by P.L. 90-103, 91-123, 91-304 92-65, 93-46, 93-423; 42 U.S.C. 3151, 3152.	No regulations; literature	74-$17,942,000 74 Set-aside: $ 1,450,000
Economic Development - grants and loans for Public Works and Development facilities.	To assist in the construction of public facilities needed to encourage long-term economic growth in areas where such growth is lacking.	Indian tribes, for the benefit of unemployed and underemployed persons.	Project grants; direct loans.	Public Works and Economic Development Act of 1965; P.L. 89-136, as amended by P.L. 90-103, 91-123, 91-304, 92-65, 93-46, 93-423; 42 U.S.C. 3131, 3132, 3135, 3141, 3153, 3171.	None. Literature.	74-$142,744,000 Indian: $22,478,000
Office of Minority Business Enterprise-Coordination, Management and Technical Assistance.	To promote and assist the expansion of minority enterprises, both in number and size.	Indians and other minority groups.	Project grants, research grants, advisory services and counseling, dissemination of technical information.	Title III of the Public Works and Economic Development Act of 1975, as amended; P.L. 89-136; 42 U.S.C. 3151; 15 U.S.C. 1512; Executive Order 11625, Oct. 13, 1971.	None. Literature.	74-$41,449,030 Indian: $1,800,000

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian education grants to local educational agencies (Office of Education)	To provide financial assistance to local educational agencies to develop and carry out elementary and secondary school needs of Indian children.	Indian children enrolled in LEA's which have at least ten Indian children or where Indians constitute at least 50% of the total enrollment.	Formula grants.	P.L. 92-318, Title IV, Part A, 86 Stat. 334.	45 CFR, Part 186, Federal Register, Vol. 38, No. 129, July 6, 1973.	73-$11,500,000 74-$23,800,000 Estimates: 75-$22,700,000 76-$22,700,000
Indian education special programs and projects (Office of Education)	To plan, develop, and implement programs and projects for the improvement of educational opportunities for Indian children.	Indian children.	Project grants.	P.L. 92-318, Title IV, Part B. 20 U.S.C. 887(c).	45 CFR, Part 187. Federal Register, Vol. 38, No. 141, July 24, 1973.	73-$ 5,000,000 74-$12,000,000 Estimates: 75-$12,000,000 76-$12,000,000
Indian education - adult Indian education (Office of Education)	To plan, develop, and implement programs for Indian adults.	Indian adults.	Project grants.	P.L. 92-318, Title IV, Part C, 20 U.S.C. 1211(a).	45 CFR, Part 188. Federal Register, Vol. 38, No. 141, July 24, 1973.	73-$ 500,000 74-$3,000,000 Estimates: 75-$3,000,000 76-$3,000,000
Indian education-non-local educational agencies.	To provide financial assistance to schools on or near reservations to develop, implement and maintain elementary and secondary school programs designed to meet special needs of Indian children.	Schools on or near reservations that are non-local education agencies.	Project grants.	P.L. 81-874, Title III, as added by Title IV, Part A, Education Amendments of 1972. 86 Stat. 834 (20 U.S.C. 241aa-241ff)	45 CFR, Part 186, Federal Register, Vol. 38.	74-$1,200,000 75-$2,270,000 Estimate: 76-$2,270,000

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Office of Native American Programs (Office of the Secretary)	To promote the economic and social self-sufficiency by providing direct support for self-determination programs aimed at improving the health, education and welfare of Native Americans both on and off reservations.	Tribal governments, Alaskan Native villages, regional corporations, public and private non-profit agencies serving Indians, Alaskan Natives, and Native Hawaiians.	Project grants.	42 U.S.C. 2781, et seq., Economic Opportunity Act of 1964, as amended P.L. 91-177, Title II.	In the process of revision; available upon request from ONAP headquarters, Washington, D.C.	72-$23,300,000 73-$22,300,000 Estimates: 74-$30,900,000 75-$32,000,000 76-$32,000,000
Indian Health Services	To raise health standards of Indian through a full range of curative, preventive and rehabilitative services and to make communities capable of maintaining their health programs.	Indians who live on or near a reservation, or who are recognized as Indians by the Indian communities in which they live, and who are within the funded scope of the Health Care Delivery System.	Provision of specialized services; advisory services and counseling.	42 U.S.C. 2001-2004(a), P.L. 83-568.	Publications of the IHS.	72-$185,500,000 73-$217,900,000 74-$204,545,291 75-$239,424,000 76-$269,541,000
Indian Sanitation Facilities	To alleviate gross unsanitary conditions, lack of safe water supplies and inadequate waste disposal facilities	Indian tribal councils for the benefit of Indians and Alaskan Natives who live on or near reservations.	Provisions of specialized services.	Indian Sanitation Facilities Act; Public Law 86 121,	Publications of the IHS.	73-$34,297,000 74-$38,230,000 75-$40,305,000 Estimate: 76-$48,968,000

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Set Asides: Housing and Community Development Act, Title II, Assisted Housing	Loans to public housing agencies to help finance or refinance the development, acquisition or operation of low income housing projects.	"Public housing agencies" includes Indian tribes, bands groups and nations, including Alaskan natives, Aleuts, and Eskimos.	Loans	Public Law 93-383; 88 Stat. 633.	Indian Housing Handbook	Indian set-aside 74-$53,671,200
Housing and Community Development Act, Title IV, Comprehensive Planning	To assist the financing of comprehensive planning.	Indian tribal groups or bodies.	Planning Grants.	Public Law 93-384, Title IV, 88 Stat. 633, amending Housing Act of 1954, 68 Stat. 590	Indian Housing Handbook	Indian set-aside 74-$1,636,000
DEPARTMENT OF THE INTERIOR BUREAU OF INDIAN AFFAIRS						
Indian accounting services for tribes	To provide an audit service for tribes	Applicant: An Indian tribe Beneficiary: Tribal officials, employees, and members	Direct services; advice and counseling	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13.	None	73-$186,000 74-$215,000 Estimates: 75-$236,000 76-$250,000

DEPARTMENT OF THE INTERIOR (cont'd.)
BUREAU OF INDIAN AFFAIRS

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian Education-federal schools (Indian schools)	To provide educational opportunities for eligible Indian children who do not have public education opportunities to meet their needs.	Applicant and Beneficiary: Children of 1/4 or more degree of Indian blood who reside within the exterior boundaries of Indian reservations under BIA jurisdiction or on trust or restricted lands under BIA jurisdiction when there are no other appropriate school facilities available to them. Enrollment may also be available to children of 1/4 or more degree of Indian blood who reside near a reservation when denial of such enrollment would have a direct effect upon the Bureau programs within reservations.	Direct services; training.	The Snyder Act of Nov. 2, 1921; P.L. 67-85; 25 U.S.C. 13.	62 IAM 25 CFR 31	73-$133,488,000 74-$117,362,000 Estimate: 75-$134,450,000 76-$78,379,000
Indian Employment Assistance	To provide vocational training and employment opportunities for Indians.	Applicant and Beneficiary: Member of a tribe, band or group of Indians whose residence is on or near an Indian reservation under BIA jurisdiction; and for vocational training grants, must be 1/4 degree or more Indian.	Project grants; advisory services and counseling.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13; Indian Adult Vocational Training Act of August 3, 1956; P.L. 84-959; 70 Stat. 986; 25 U.S.C. 309	25 CFR 34	73-$42,427,000 74-$34,219,000 Estimates: 75-$33,791,000 76-$34,061,000

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian education-contracts with Indian school boards	To encourage Indian participation in local school affairs and to provide for operation of schools by local Indian people.	Applicant: Tribal corporation or Indian school boards as defined in 25 CFR 52. Beneficiary: Indian children of 1/4 or more degree of Indian blood who reside on or near reservation areas under the jurisdiction of the BIA.	Direct payments for specified uses; use of property, facilities, and equipment.	Johnson-O'Malley Act of April 16, 1934; as amended June 4, 1936; P.L. 74-638; 25 U.S.C. 452; 25 U.S.C. 13.	20 BIAM 6	73-$4,550,000 74-$4,435,000 Estimates: 75-$5,206,000 76-$5,700,000 ($48,723,000)
Indian education-dormitory operations	To provide housing for Indian children attending public schools in selected districts on or adjacent to their home reservations.	Applicant and Beneficiary: Children of 1/4 or more degree of Indian blood, who reside within the exterior boundaries of Indian reservations under BIA jurisdiction, or on trust or restricted lands under BIA jurisdiction when there are no other appropriate school facilities available to them. Enrollment may also be available to children of 1/4 or more degree of Indian blood who reside near a reservation when denial of enrollment would have effect on BIA programs within reservation.	Direct services; boarding, feeding, and counseling services to allow eligible Indian students to attend public schools.	The Snyder Act of Nov. 2, 1921; P.L. 67-85; 25 U.S.C. 13.	62 IAM 25 CFR 31	73-$5,300,000 74-$5,972,000 Estimate: 75-$6,000,000 76-$28,480,000

DEPARTMENT OF THE INTERIOR (cont'd.)
BUREAU OF INDIAN AFFAIRS

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian education assistance to non-federal schools (Johnson-O'Malley Program)	To assure adequate educational opportunities for Indian children attending public schools.	Applicant: Public school districts which have eligible Indian children in attendance; provide educational services meeting established state standards; maintain a reasonable local tax effort; and have established Indian advisory school boards. Beneficiary: Children of 1/4 or more degree of Indian blood whose parents reside on or near Indian reservations and who are otherwise eligible for federal services as Indians.	Direct payments for specified uses.	Johnson-O'Malley Act of April 16, 1934, P.L. 74-638, 25 U.S.C. 452.	62 IAM 3; 25 U.S.C. 33.	73-$25,352,000 74-$22,079,000 Estimates: 75-$27,952,000 76-$27,952,000
Indian education-colleges and universities	To encourage Indian students to continue their education and training beyond high school.	Applicant and Beneficiary: 1/4 or more degree of Indian, Eskimo, or Aleut blood, member of a tribe serviced by the Bureau, enrolled or accepted for enrollment in an accredited college, have financial need as determined by institution's financial aid office.	Project grants for expenses directly related to school attendance.	The Snyder Act of Nov. 2, 1921; P.L. 67-85; 25 U.S.C. 13.	62 IAM 5 25 CFR 32	73-$20,956,000 Estimates: 74-$22,756,000 75-$31,956,000 76-$32,148,000

DEPARTMENT OF THE INTERIOR (cont'd.)
BUREAU OF INDIAN AFFAIRS

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian agricultural extension	To provide assistance to individual Indians, families, and groups on problems concerning farming, ranching, family economics, consumer education, home-making and youth development through youth organizations.	Applicant: State University extension programs serving federally recognized Indian organizations and individuals. Beneficiary: Federally recognized Indian organizations and individuals.	Direct services; advice and counseling; funding contracts with state universities.	The Snyder Act of Nov. 2, 1921; 41 Stat. 208; P.L. 67-85, 25 U.S.C. 13; memorandums of agreement of March 1956 between BIA and U.S.D.A. Extension Service.	None.	73-$2,264,251 74-$2,328,000 75-$2,474,000 76-$2,375,000
Indian education-adults	To provide general instruction for Indian adults in literacy and high school equivalency.	Applicant and Beneficiary: Generally limited to persons 18 or older residing on trust land who are 1/4 degree or more Indian blood.	Direct services through training by BIA employees or contracting for teachers through BIA. Federal, state and local programs must be utilized first.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13.	None.	73-$2,074,000 74-$2,104,000 75-$2,666,900 (estimate) 76-$2,683,000 ($40,914,000)
Indian forests-fire suppression and emergency rehabilitation	To provide effective means for the suppression of wildfires in Indian forest rangelands and the rehabilitation of burned over lands, as needed.	Applicant and Beneficiary: Indian tribes and individual Indians under BIA jurisdiction.	Advisory services and counseling; provision of specialized services; dissemination of technical information.	The Snyder Act of Sept. 20, 1922; 42 Stat. 857; P.L. 67-315; 16 U.S.C. 594; Act of May 27, 1955; 69 Stat. 66; P.L. 84-46; 42 U.S.C. 1856.	25 CFR 141.21	73-$3,700,000 74-$7,109,000 Estimate: 75-$ 800,000 76-$5,897,000

DEPARTMENT OF THE INTERIOR (cont'd.)
BUREAU OF INDIAN AFFAIRS

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian forests-management, protection and development.	To work with Indians to protect, develop, utilize and improve the Indian forests to yield the highest sustainable economic and social benefits for the Indian owners.	Applicant and Beneficiary: Indian tribes and individual Indians under BIA jurisdiction.	Provision of specialized services; advisory services and counseling dissemination of technical information.	Act of June 25, 1910; 36 Stat. 857; P.L. 61-313; 25 U.S.C. 406-407 as amended by the Act of April 30, 1964; 78 Stat. 186, 187.	25 CFR 141	73-$5,943,000 74-$6,969,000 Estimate: 75-$7,257,000 76-$8,478,000
Indian housing development	To eliminate substandard Indian housing in the 1970's in accordance with the joint plans of HEW, HUD and Interior, in conjunction with the Indian Housing Improvement Program.	Applicant and Beneficiary: Indians and other persons who meet the income criteria and other rules and regulations of the legally established local Indian housing authorities.	Training; advisory services and counseling; dissemination of	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13.	HUD's guidelines	73-$2,394,373 74-$2,516,000 Estimate: 75-$2,506,000 76-$5,067,000
Indian Lands-irrigation, construction, maintenance, operation, and related power systems.	To develop irrigation facilities and to expand and rehabilitate distribution facilities.	Applicant and Beneficiary: Any landowner and/or user within Indian irrigation projects.	Provision of specialized services.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85, 25 U.S.C. 13.	25 CFR 191-203 25 CFR 211-218 25 CFR 221-233	73-$18,414,000 74-$20,830,000 Estimate: 75-$32,008,000 76-$24,887,000

DEPARTMENT OF THE INTERIOR (cont'd.)
BUREAU OF INDIAN AFFAIRS

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian lands - real estate appraisal	To provide professional real estate appraisal, mineral and petroleum valuation services; landscape architecture and urban planning services.	Applicant and Beneficiary: Must be an Indian or Indian tribe.	Provision of specialized services.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13.	25 CFR 121.12 25 CFR 161.14 25 CFR 131.5	73-$2,049,980 74-$2,192,000 Estimate: 75-$2,913,000 76-$2,318,000
Indian lands - real estate services	To maintain the Indian trust or restricted land estate and generate from it the greatest income to Indian owners.	Applicant and Beneficiary: Applicant must have land or interest in land held in trust by the U.S. or owned in a restricted status. May be tribes or individual Indians.	Provision of specialized services; advisory services and counseling.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 2, 5, 9, 13, 379 and 405; 5 U.S.C. 22.	25 CFR 1.4, 2, 15, 16, 17, 120 thru 132, 161, 171 thru 177, 183, 184, 251 and 252; 43 CFR 4.	73-$7,863,000 74-$7,920,000 Estimate: 75-$9,675,000 76-$9,555,000
Indian lands - soil and moisture conservation	To assist the owners and users of Indian lands in conserving the soil and water, and to increase production on Indian land.	Applicant and Beneficiary: The owners of Indian trust lard and/or users of Indian trust land.	Provision of special services; advisory services and counseling; sale, exchange, or donation of property and goods.	Soil Conservation Act of April 27, 1935; 49 Stat. 163; P.L. 74-46; 16 U.S.C. 590(a).	BIA Manuals	73-$8,290,000 74-$8,333,000 75-$9,373,000 76-$2,621,000

DEPARTMENT OF THE INTERIOR (cont'd.)
BUREAU OF INDIAN AFFAIRS

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian property acquisition transfer of Indian school properties	To convey certain federal school properties to local school districts or state or local governmental agencies.	Applicant: State or local govt. agencies or local school districts. Beneficiary: Indian children.	Sale, exchange, or donation of property and goods.	Act of June 4, 1953; 67 Stat. 41[illegible] 87-47, as amended; 25 U.S.C. 293(a).	None.	73-N/A 74-N/A 75-N/A 76-N/A
Indian rights protection	To gather necessary technical data required to assert and protect Indian natural resource rights.	Applicant and Beneficiary: Federally recognized Indian groups and tribes.	Provision of specialized services.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13; DOI Secretarial Order of Jan. 10, 1972.	None.	73-$1,743,600 74-$1,756,000 75-$2,643,000 76-$6,390,000
Indian roads-maintenance	To maintain Indian reservation roads and bridges.	Applicant: Indian tribal governing bodies. Beneficiary: Indians	Provision of specialized services.	25 U.S.C. 318(a); 45 Stat. 750; 42 Stat. 208; 72 Stat. 885; P.L. 85-767.	25 CFR 162	73-$6,386,000 74-$6,536,000 Estimate: 75-$8,694,000 76-$9,585,000
Indian roads - reservation roads and bridges	To construct and approve the federal aid Indian road system.	Applicant: Indian tribal governing bodies: Beneficiary: Indians	Provision of specialized services.	The Highway Codification Act of August 27, 1958; 72 Stat. 885; P.L. 85-767; 23 U.S.C.	25 CFR 162	73-$7,863,000 74-$56,748,000 Estimate: 75-$60,500,000 76-$59,016,000

DEPARTMENT OF THE INTERIOR (cont'd.)
BUREAU OF INDIAN AFFAIRS

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian social services - child welfare assistance	To provide foster home and appropriate institutional care for eligible Indian children when such services are not available from state or local public agencies.	Applicant and Beneficiary: Dependent, neglected and handicapped children who live on reservations or under BIA jurisdiction in Oklahoma and Alaska.	Direct payments with unrestricted use.	The Snyder Act of Nov. 2, 1921; P.L. 67-85; 42 Stat. 208; 25 U.S.C. 13.	None.	73-$5,400,000 74-$6,922,760 Estimate: 75-$6,480,000 76-$9,720,000
Indian social services - counseling	To help Indians to secure welfare assistance, cope with family problems, and other serious social problems.	Applicant: Indians living on reservations, including Indians in Oklahoma and Alaska. Other Indians who come to BIA agency offices where services can be provided at the office. Beneficiary: Indian tribes and communities.	Advisory services and counseling.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13.	None.	73-$7,327,000 74-$7,356,482 Estimate: 75-$7,988,000 76-$6,993,000
Indian social services - general assistance	To provide assistance for living needs to needy Indians on reservations including those in Oklahoma and Alaska, when such assistance is not available from state or local public agencies.	Applicant and Beneficiary: Needy Indians living on reservations or under BIA jurisdiction in Oklahoma and Alaska.	Direct payments with unrestricted use.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13.	None.	73-$42,060,000 74-$45,389,217 Estimate: 75-$49,095,000 76-$53,298,000

DEPARTMENT OF THE INTERIOR (cont'd.)
BUREAU OF INDIAN AFFAIRS

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian technical assistance	To provide technical assistance and training to Indians and Alaska Natives in the fields of construction, operation, repair and maintenance of buildings and utilities, as well as needed skills for commercial enterprise.	Applicant and Beneficiary: Applicant must be an Indian or Alaska Native.	Training; advisory services and counseling.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13.	Federal contracting requirements and program publications	73-74-$3,400,000 Estimates: 75-$4,522,000 76-$15,617,000
Indian tribal government operations	To assist tribal governments to carry out their responsibilities to the tribal membership.	Applicant and Beneficiary: All federally recognized Indian tribes and members.	Advisory services and counseling; provision of specialized services.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13; Indian Reorganization Ac of June 18, 1934; 48 Stat. 984; P.L. 73-383; 25 U.S.C. 476; Oklahoma Indian Welfare Act of June 26, 1936; 49 Stat. 1967; P.L. 74-816; 25 U.S.C. 503; Alaska Native Claims Settlement Act of Dec. 18, 1971; 85 Stat. 688; P.L. 92-203; Alaska Act of May 1, 1936; 49 Stat. 1250; P.L. 74-538.	25 CFR 41 to 74; 83 BIAM	73-$5,346,258 74-$6,422,000 Estimate: 75-$8,843,000 76-$9,250,000

DEPARTMENT OF THE INTERIOR (cont'd.)
BUREAU OF INDIAN AFFAIRS

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian Business Enterprise Development	To create both jobs and income for Indians	Applicant: Corporations or associations with existing O-J-T programs which are recognized by industry and labor as leading to skill jobs. Individuals are not eligible but tribes and Indian groups are. Beneficiary: Indians	Provision of specialized services.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85, 25 U.S.C. 13; Indian Adult Vocational Training Act of August 3, 1956; 70 Stat. 986; P.L. 84-959; 25 U.S.C. 309.	25 CFR 34	74-$2,378,000 75-$2,400,000 76-$11,901,000
Indian lands-environmental quality services	To provide environmental examination of proposed activities to comply with N.E.P.A.	Applicant: Tribal organization. Beneficiary: Tribal people or tribe.	Provision of specialized services.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13; National Environmental Policy Act of 1968; 83 Stat. 852; P.L. 91-90.	D.M. 516 Council on Environmental Quality Guidelines	74-$503,400 75-$688,000 Estimate: 76-$797,000
Indian Arts and Crafts Board	To encourage and promote the development of native Indian arts and crafts.	Indian, Eskimo, and Aleut individuals and organizations, state and local govts., non-profit organizations.	Advisory services and counseling; use of property, facilities and equipment; investigation of complaints.	An Act to promote the development of Indian Arts and Crafts; P.L. 74-355, 25 U.S.C. 305; 18 U.S.C. 1158-9; 42 Stat. 891-2; 62 Stat. 759	25 CFR 301, 304, 307, 310	73-$682,336 74-$720,000 75-$742,000 Estimate: 76-$741,000

DEPARTMENT OF THE INTERIOR (cont'd.)
BUREAU OF INDIAN AFFAIRS

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian law enforcement services	To maintain criminal justice systems within Indian reservations, Indian country, or dependent Indian communities, where the states have not assumed such responsibilities in conjunction with the tribes affected.	Applicant and Beneficiary: Federally recognized Indian tribal governing bodies where civil and criminal jurisdiction has not been assumed as a state responsibility.	Advisory services and counseling; training; investigation of complaints.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13; 18 U.S.C. 3055; Interior Appropriations Act of 1939.	25 CFR 11	73-$8,260,717 74-$12,396,559 Estimate: 75-$10,115,000 76-$18,482,000
Indian loans - claims assistance (expert witness loans)	To enable Indian tribes or identifiable Indian groups without available funds to obtain expert assistance in the preparation and processing of claims pending before the Indian Claims Commission.	Applicant and Beneficiary: An Indian organization must have one or more pending claims of a nature and in a stage of prosecution requiring the services of expert witnesses.	Direct loans.	Expert assistance loans; P.L. 88-168; 25 U.S.C. 70n-1.	25 CFR 91.21 47 IAM 7.21	73-$ 92,500 74-$ 92,500 Estimate: 75-$500,000 76-$668,000
Indian property acquisition - transfer of federally owned buildings improvements and/or facilities	Upon request by a tribe, band, or group to transfer to it title to any federally owned buildings, improvements or facilities located on Indian or BIA lands.	Applicant and Beneficiary: An Indian tribe, band or group, including Eskimos and Aleuts.	Sale, exchange, or donation of property and goods.	Act of August 6, 1956; 70 Stat. 1057, P.L. 84-991; 25 U.S.C. 443(a).	None.	73-$400 74-$600 Estimate: 75-$1,000 76-$59,832,000

DEPARTMENT OF THE INTERIOR (cont'd.)
BUREAU OF INDIAN AFFAIRS

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian Housing Improvement (HIP)	To eliminate substandard housing in the 1970's in conjunction with other federal housing programs.	Applicant and Beneficiary: Indians in need of financial assistance to help repair or renovate existing homes or who need a new house and cannot be helped by any other federal program. Indians who have the financial ability to provide their own housing are not eligible.	Project grants.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13.	Housing Improvement Program Criteria and Administration	73-$10,383,731 74-$10,390,000 Estimates: 75-$10,462,000 76-$11,210,000
Indian investments-tribal trust funds and individual Indian monies	To invest Indian tribal trust funds, Indian monies, proceeds of labor, and individual Indian monies either in commercial banks or U.S. Govt. public-debt obligations and securities.	Applicant and Beneficiary: Individual Indians and tribes having funds on deposit in the IIM or tribal accounts.	Advisory services and counseling for IIM, IMPL, and tribal trust funds.	Act of June 24, 1938; 52 Stat. 1037; P.L. 75-714; 25 U.S.C. 162(a).	25 CFR 104 25 U.S.C. 162(a)	73-$140,000 74-$150,000 Estimate: 75-$170,000 76-$145,000
Indian lands - range management	To conserve and promote Indian use of Indian-owned rangelands by Indians.	Applicant and Beneficiary: Must be Indian owner of trust land or a user of trust land.	Provision of specialized services; advisory services and counseling; dissemination of technical information.	The Snyder Act of Nov. 2, 1921; 42 Stat. 208; P.L. 67-85; 25 U.S.C. 13.	25 CFR 151-152 55 BIAM 55 BIAM Supp. 1	73-$2,243,000 74-$3,969,000 75-$4,422,000 76-$12,608,000

DEPARTMENT OF JUSTICE

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Indian Civil Rights Office of Civil Rights	To enforce the Civil Rights laws of the United States as they apply to Indians.	All American Indians.	Provision of specialized services.	P.L. 88-352, Civil Rights Act of 1964; Titles II, III, IV and VII; P.L. 92-261; 42 U.S.C. 2000(a-c,e and h-2); P.L. 90-284, Civil Rights Act 1968; Titles II and VIII; 42 U.S.C. 1301; 25 U.S. C. 1302; P.L. 89-110, Voting Rights Act of 1965; 42 U.S.C. 1973 as amended by P.L. 91-285.	28 CFR 0.50	Not separately identifiable.
Law Enforcement Assistance Administration - Indian Criminal Justice Programs	To demonstrate that the crimes specified in tribal penal codes can be reduced through special law enforcement emphasis on Indian adults and juveniles through special improved facilities and services.	Federally recognized Indian tribes which exercise criminal jurisdiction over tribal members for offenses identified in the tribal penal code occurring within the reservation.	Grants.	Public Law 93-83, as amended by Public Law 93-415, 88 Stat. 1109.	None published.	Indian set-asides 74-$4,041,363 75-$3,674,522

53-490 O - 76 - 14

DEPARTMENT OF LABOR

Name of Program	Purpose/Nature of Program	Eligibility Requirements	Service Delivery Method	Authorizing Legislation	Regulations/ Guidelines	Funding History
Comprehensive Employment and Training Programs	To provide job training and employment opportunities and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency.	Unemployed Indians living on state and federal reservations.	Formula grants; project grants.	Comprehensive Employment and Training Act P.L. 93-203, 87 Stat. 839. The Emergency Jobs and Unemployment Assistance Act of 1974, P.L. 93-567; 88 Stat. 1845.	29 CFR 94-96 and 98; 29 CFR 99.	Indian set-asides 74-$6,654,238 75-$50,560,000 76-$50,560,000
			SMITHSONIAN INSTITUTION			
American Indian Cultural Resources Training Program	To assist Indian persons involved in tribal history projects to do research in Washington, D.C., using Smithsonian resources.	American Indians nominated by their tribal governments.	Use of facilities; provision of specialized services; advisory services.	Short term grants from the BIA and the National Endowment for the Humanities.	None.	Not available.
			DEPARTMENT OF TRANSPORTATION			
Indian Highway Safety Program	To promote highway safety on Indian reservations.	Federally recognized tribes.	Matching fund grants.	Highway Safety Act of 1966 § 402, as amended by the Highway Safety Act of 1973.		Indian set-asides 74-$381,205 Total for states in 74 - $80,000,000

APPENDIX E

COMMENTS RECEIVED ON THE TENTATIVE FINAL DRAFT REPORT OF THE COMMISSION

(193)

P. 192 - blank

COMMENTS ON THE TENTATIVE DRAFT REPORT OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

CONTENTS

	Page
Acknowledgement	198
Affiliation of Arizona Indian Centers	199
Agriculture, U.S. Department of:	
Office of Equal Opportunity	203
Food and Nutrition Service	207
Akwesasne Mohawk Tribal Council	209
Alaska Federation of Natives	210
Alaska Native Foundation	212
American Indian Business Association	213
Association on American Indian Affairs, Inc	217
Beane, Syd, Executive Director, Phoenix Indian Center	219
Benton Paiute Reservation	221
Berry Creek Tribal Council, Maidu	223
Binder, Dennis	227
Borbridge, Commissioner John	230
Browning Public Schools, Montana	240
Bureau of Indian Affairs, Nome, Alaska, Agency	274
California, Department of Housing and Community Development	275
Cammack, Rose	279
Commerce, U.S. Department of, Economic Development Administration	280
Connecticut, State Department of Environmental Protection	286
Creek Nation	287
Dellwo, Rudolf and Schroeder	300
Deloney, George C	306
Evans, Nancy	314
Friends Committee on National Legislation	319
Gallup-McKinley County Public Schools	321
Harvey, Cecil L	322
Horman, Calvin	325
Housing Assistance Council, Inc	326
Hawaii, Gov. George R. Ariyoshi	327
Health, Education, and Welfare, U.S. Department of, Office of Education	328
Houma Alliance, Inc	330
Housing and Urban Development, U.S. Department of, Denver Regional Office	332
Indian Claims Commission	334
Indian Education Conference, Arizona State University	337
Indian Health Service	381
Indian Rights Association	383
Interior, U.S. Department of, Assistant Secretary James A. Joseph	386
Introduction	197
Jagnow, Earl	388
Johnston, Senator J. Bennett	393
Kidwell, Clara Sue	394
Kodiak Area Native Association	398
Laguna Pueblo	408
Lembke, Dale and Bonnie	411
Livingston, Robert J	412
Louisiana, Gov. Edwin Edwards	415
McAlear, James H	416
Montana Department of Community Affairs	420
National Association of Counties	422

P. 194 - blank

	Page
National Congress of American Indians	493
National Indian Education Association	557
National Tribal Chairmen's Association	567
Native American Center	585
Native American Coalition of Tulsa	586
Native American Rights Fund	588
New Mexico Indian Tax Study Commission	686
New Mexico, Gov. Jerry Apodaca	688
New Mexico, Health and Social Services Department	690
Oklahoma City Urban Indian Health Project	693
Oregon, Commission on Indian Services	695
Piegan/Blackfeet	698
Prescott Indian Center	701
Patterson, Bradley H., Jr., Brookings Institution	704
Phoenix Indian Center	707
Pit River Home and Agricultural Cooperative Association	708
Poco, Lonnie	712
Pueblo Council, the All-Indian	716
Ruffing, Lorraine T., and Trosper, Ronald L	776
Rural Alaska Community Action Program	779
Seil, Lue A	781
Shaan Seet, Inc	782
Shinnecock Tribe	784
Shoshone-Bannock Tribes	789
Sioux Indian Center	795
Sitnasuak Native Corporation	796
Squaxin Island Tribe, Chairman Calvin J. Peters	799
South Bay Indian Services, Inc	800
South Dakota, Gov. Richard F. Kneip	802
Stichting N.A.N.A.I	808
Taylor, Theodore W	809
Tlingit and Haida Indians of Alaska, Central Council	820
Ute Indian Tribe	855
Veeder, William H., Attorney at Law	424
Washington State Native American Education Advisory Committee	861
Winslow Indian Center	864
Wolfe, Arlene, *et. al.* Flathead Reservation	869
Yakima Indian Nation, Confederated Tribes and Bands	874
Ziontz, Pirtle, Morisset, Ernstoff & Chestnut	876

APPENDIX E

COMMENTS RECEIVED ON THE TENTATIVE FINAL DRAFT REPORT OF THE COMMISSION

INTRODUCTION

The letters and comments which appear in this appendix relate to a working draft of the final Commission report which was given wide public distribution prior to preparation of the final report. As work on the development of the final report commenced, it was recognized that much time and attention had been given to eliciting the opinion of the public, both Indian and non-Indian, on the problems affecting Indian people, but an additional opportunity was necessary for the public to evaluate and criticize the findings and recommendations the Commission proposed to make as solutions to these problems.

In early March of 1977 some 1,200 copies of the proposed Tentative Final Draft of the Commission Report were mailed to all Indian tribes, including federally and non-federally recognized tribes, Indian groups and organizations, both rural and urban, Governors and agencies of various States with an interest in Indian affairs, interested Congressmen and Senators, and numerous Indian and non-Indian people and organizations. A request was made that they review the tentative draft and supply comments by April 23, 1977, in order that their comments could be utilized in the completion of the final report.

The comments included in this appendix were reviewed by the Commission as the final draft was developed. Many of the suggestions were incorporated into the final report and many of the criticisms resulted in substantial revision of both text and recommendations. The chapters on Federal administration and economic development were particularly affected by these comments. Other comments were not incorporated into the final report. Some of these comments, particularly those relating to problems in Alaska, were seen to be substantive and meritorious. However, time and manpower simply did not permit a broadening of the report to address the additional issues presented.

Finally, many of the comments simply represented a general opposition to the findings and recommendations of the Commission. Some of these comments raise substantial issues that deserve serious consideration. Most of these issues have been addressed in the final report. Other of these comments reflect an emotional attitude that can only be described as anti-Indian per se and not worthy of consideration. All of these comments are included in this appendix.

ACKNOWLEDGMENT

The Commission wishes to extend its appreciation to the University of Minnesota School of Law for the comments of its student body on the tentative final report. Due to the volume of this material, it is not possible to include these papers in this appendix. However, they are included in the Commission bibliography and may be located among all of the Commission documents on file at the National Archives.

IMPORTANT

We recognize that you may not be able to thoroughly read and evaluate all parts of this Report within the time allowed for comment. However, in order to include your comments in our Final Report. this questionnaire must be completed and returned in the enclosed envelope postmarked no later than April 16, 1977. Our Final Report must be completed by May 15, 1977 for final Commission approval.

(Arizona Indian Centers, Inc.)

NAME Affiliation of Arizona Indian Centers ADDRESS 2721 N. Central Ave. #908

TRIBE/ORGANIZATION Indian organizations Phoenix, Arizona 85004

A. PLEASE CIRCLE ONE TO INDICATE YOUR IDENTITY AS:

Tribal Chairman	Tribal Governing Body	Individual Indian
Member of Congress	(Organizational Governing Board)	
State Official	Private Citizen	

B. PLEASE EVALUATE THE SECTIONS BY CHECKING THE BLANK WHICH MOST NEARLY REPRESENTS YOUR OPINION.

	Excellent	Good	Poor
The report as a whole is			
I. History			
II. Legal Concepts			
III. Conditions			
IV. Federal-Indian Relations			
V. Tribal Government			
VI. Federal Administration			
VII. Economic Development			
VIII. Social Services			
IX. Off-Reservation	X		
X. Terminated Indians			
XI. Non-Recognized Indians			
XII. Special Problem Areas			
XIII. General			

C. HAVING READ THE RECOMMENDATIONS AT THE END OF EACH SECTION, PLEASE ANSWER THE FOLLOWING QUESTIONS.

1) Which recommendations should be given priority status? Why? SEE ATTACHED

2) Are there recommendations with which you disagree? Why? see attached

3) Are there recommendations you would like to have added? see attached

4) Do you feel the content of the report provides an accurate, useful picture of the situation? see attached

5) Do you have any additional comments? see attached

F. SPACE IS PROVIDED ON THE FOLLOWING PAGES FOR YOUR SPECIFIC RECOMMENDATIONS.

NAME Affiliation of Arizona Indian Centers ADDRESS 2711 N. Central Avenue #908

TRIBE/ORGANIZATION Indian organizations Phoenix, Arizona 85004

RECOMMENDATIONS

Chapter (9) Page (30) Paragraph (2)

In the section beginning with the words "_____

_____," it is suggested that the following addition, deletion or change in wording be made, or the following concept expressed differently:_____

The members of the Board of the Affiliation of Arizona Indian Centers (Arizona Indian Centers, Inc.) did not have time in the short time permitted them to read the entire report but as A.A.I.C. is an organization of Urban Indian Centers that give direct service to Urban off-reservation Indians they directed the time they had to the section of the report dealing with off-reservation Indians.

The Board of A.A.I.C. strongly supports the recommendations of this section. They offer the following additions to the recommendations regarding Urban Indian Centers; Funds available for financial support of Urban Centers should be based on need not population.

Also Urban Indian Centers in order to properly serve the Indians in Urban off-reservation areas should be eligible for certain Economic Development Funds for facilities and give Centers the option and ability to develop businesses along with our Centers.

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF EQUAL OPPORTUNITY
WASHINGTON, D.C. 20250

MAY 11 1977

IN REPLY REFER TO: 7160
Indian Desk

Senator James S. Abourezk, Chairman
American Indian Policy Review
Commission
Congress of the United States
House Office Building, Annex No. 2
2nd and D Streets, S.W.
Washington, D.C. 20515

Dear Senator Abourezk:

I appreciate the opportunity to comment on the Tentative Final Report of the American Indian Policy Review Commission. Three areas discussed in the report are of particular interest to me. These are: the inclusion of the U.S. Department of Agriculture's (USDA) Indian Desk in a separate Indian department or agency, consolidation of all Indian land acquisition programs, and the effectiveness of USDA nutrition programs.

On pages 128-9 of Chapter Six on Federal Administration, the report suggests that secondary consideration be given to placing the Department of Agriculture's Indian Desk within an independent Indian agency. The purpose would be to "consolidate programs from federal departments which are a part of a separately established Indian service structure which exists because of the unique status of Indian tribes." I do not disagree with this objective. However, our Indian Desk does not administer any programs for Indians. Rather, it promotes Indian participation in USDA programs generally available to all citizens. Such an advocacy function within the Department will still be needed even if a separate agency administering Indian programs is created.

Regarding Indian land acquisition programs, I support the Commission's recommendation (chapter 7, page 35, number 8) that Congress mandate the Executive to study the feasibility of consolidating the Farmers Home Administration and Bureau of Indian Affairs tribal land acquisition programs. While the Farmers Home Administration has provided most of the funding for tribal land acquisition and offers considerable expertise on the agricultural utilization of such land, a larger and more flexible program is needed. As noted in other recommendations (pages 7-34 and 7-35), consideration should be given to increasing appropriations, revising

loan procedures to facilitate tribal purchase of key tracts of land, and broadening the category of eligible lands.

The section on Nutrition (chapter 8, pages 43-48) clearly describes nutritional deficiencies experienced by Indians and the inadequacies of the USDA commodity and food stamp programs. Unfortunately, there are few specific suggestions for improving these programs other than the broad recommendation (page 74) that: "USDA should review and revamp its food supply system to insure consistent delivery of nutritious, health-giving foods to the Indian people, with particular emphasis on high-risk groups ... and to insure the combined, simultaneous use of both food stamps and donated foods for those tribes desiring it."

Also, I question several statements about USDA food programs. First, the report asserts on page 8-45 that "USDA foods, by any standard, lack adequate nutritional value" and that "USDA's standard commodity distribution list represents a nutritious food balance." Besides the apparent contradiction, it should be noted that the Family Food Distribution Program (commodities) is designed as a supplementary food source. I realize that for many Indians, commodities constitute the major part of their diet. A redefinition of the commodity program is perhaps in order.

Second, the report asserts that USDA programs for high risk groups are inadequate because of unrealistic eligibility requirements and inappropriate diets (page 8-46). I assume that the reference is to the Special Supplemental Feeding Program for Women, Infants and Children (WIC) which requires that a competent professional authority determine the nutritional need of recipients through a medical or nutritional assessment. This does not seem unreasonable since the purpose of the program is "to provide supplemental nutritious food as an adjunct to good health care during such critical times of growth and development in order to prevent the occurrence of health problems" (Child Nutrition Act of 1966, section 17). The supplemental foods provided include iron-fortified infant formula, milk, cheese, eggs, cereal and juices, all of which are nutritionally appropriate for program recipients.

Finally, the report maintains that "for those who cannot surmount these obstacles [of the Food Stamp Program], there is no alternative, since USDA does not want to operate a commodity program and a stamp program simultaneously in the same community, despite Indian opinion that such flexibility is needed in order to meet diversified needs" (pages 8-46 and 8-47). In fact, though the Department has strongly encouraged the use of the Food Stamp Program, Indian reservations are the only localities where dual operation of the Food Stamp and Food Distribution Programs has been allowed.

I want to commend the American Indian Policy Review Commission and staff for the work you have done. I hope that these comments will contribute to the effectiveness of the Final Report and the ultimate implementation of much needed changes for Indian people.

Sincerely,

JAMES FRAZIER
Director

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF EQUAL OPPORTUNITY
WASHINGTON, D.C. 20250

MAY 31 1977

IN REPLY 7160
REFER TO: INDIAN DESK

Honorable James S. Abourezk, Chairman
American Indian Policy Review Commission
Congress of the United States
House Office Building, Annex No. 2
2nd and D Streets, SW.
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed are comments of the Food and Nutrition Service on pertinent sections of the Tentative Final Report of the American Indian Policy Review Commission. Although I realize that the Final Report was submitted to Congress on May 17, 1977, this information may still be useful.

Sincerely,

JAMES FRAZIER
Director

Enclosure

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD AND NUTRITION SERVICE

REPLY TO ATTN OF:

WASHINGTON, DC 20250

MAY 16 1977

SUBJECT: Tentative Final Report of American Indian Policy Review Commission

TO: Stuart Jamieson, Supervisor
Indian Desk

Attached are our comments on the American Indian Policy Review Commission's findings on nutrition from their Tentative Final Report.

We regret the inadvertant delay in providing these comments.

for Adelia Scurlock
H. A. Scurlock, Director
Civil Rights Staff

Attachment

93-440 O - 78 - 15

FOOD AND NUTRITION SERVICE COMMENTS ON TENTATIVE FINAL REPORT OF THE AMERICAN POLICY REVIEW COMMISSION

We share the concerns of the Commission of making a nutritious diet available to Indians. Following are comments on the distribution of foods to Indians (Reference pages 8-45 and 8-46 of your report) and Food Stamp Program (Reference pages 8-46-through 8-48).

Distribution of Foods to Indians

USDA's commodity list consitutes a nutritious food balance. All twenty-two food items are made available to the states. It is the State's option to select the foods for distribution to its recipients. It may select all or only a portion of the items to distribute. The variety of foods is not always accepted by the states, foods accepted are not always distributed, and food distributed may not be accepted by the families. The nutritional goal of the USDA Food Distribution Program is to provide 100 percent of the Recommended Dietary Allowance (RDA) to recipients. If foods are used as recommended they provide the RDA for protein, calcium, iron, vitamins A and C, thiamin, riboflavin, and 65% of calories needed.

The Special Supplemental Food Program for Women, Infants and Children (WIC) provides funds to supply nutritious food supplements to persons in the high risk groups (pregnant women, infants and children up to 5 years of age who are determined by competent professionals to be at "nutritional risk" because of inadequate nutrition or income). We consider this a viable method of certification because it provides the opportunity to reach more than one problem. It enables persons who have nutritional deficiency to get a dietary supplement and because it requires certification by a competent professional, other health problems can be identified and remedied.

Food Stamp Program

The Food Stamp Division of the Food and Nutrition Service Sponsored a national workshop on "Food Issues Affecting the Indian Population." About 60-80 Indian Representatives from various tribes were invited to attend. Many of the Tentative Final Report concerns were addressed during that workshop. The indefinite continuation of the Food Distribution Program to all areas where the Food Stamp Program is not meeting adequate foods needs was one of the major concerns. This action would require legislative changes in the Food Stamp Act.

A bill has been introduced which provides for the simultaneous operation of the Food Stamp and Food Distribution Programs on Indian Reservations.

Tribal Office 518 358 2660
Education Office 518 358 2660
Planning Office 518 358 4908

St. Regis
Mohawk Indian Reservation
Akwesasne (Hogansburg), New York 13655

MOHAWK TRIBAL COUNCIL

AKWESASNE

April 29, 1977

Senator James S. Abourezk, Chairman
American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2d and D Streets, S.W.
Washington, D.C. 20515

Dear Senator Abourezk:

In reviewing the final text of the American Indian Policy Review Commission, the St. Regis Mohawk Tribal Council wishes to comment on the findings.

First and foremost is the recognition of the treaty rights of all Native Americans. Native peoples signed these documents in good faith and now the United States Government should honor them.

Any reorganization of the B.I.A. that will improve services to the Indian people should be done, since the primary function of the B.I.A. is service for Indian people, their needs should be of utmost importance.

If it is felt that the Bureau has mismanaged tribal trust lands then this should be brought out so that all Americans might understand the hardships that Native Americans endure in their fight to control their own destiny.

On the subject of sovereignty, all tribes have felt that they are nations within a nation, and the St. Regis Mohawks are no exception. Congress must act on the issues at hand relating to sovereignty of Indian tribes.

Rudy Hart
Rudy Hart, Sr.

Charles T. Terrance
Charles T. Terrance

Leonard V. Garrow
Leonard V. Garrow

ALASKA FEDERATION OF NATIVES, INC.

Integrity, Pride in Heritage, Progress

April 25, 1977

Ernest L. Stevens, Director
AMERICAN INDIAN POLICY REVIEW COMMISSION
House Office Building Annex No. 2
2nd and D Streets, S.W., Room 3158
Washington, D.C. 20515

Dear Mr. Stevens:

We appreciate the opportunity to comment on the draft final report of the American Indian Policy Review Commission. We are primarily interested in the areas affecting Alaska and in general the policy affecting Alaska Native "tribes".

We wholeheartedly endorse the reorganization of the Bureau of Indian Affairs with the transfer of authority and responsibility to the local level. We also concur with the organization of an independent agency concerned totally with Indian affairs, and which would include the various Indian-oriented agencies presently in existence under the umbrella of various agencies. A better coordination of Indian Programs through the various agencies is needed and would only serve to increase the efficiency and effectiveness of these respective departments.

We are pleased the Commission agreed to include in its report, a special section concerning Alaska; we concur with the Commission's recommendations outlined in this section.

Thank you again for the opportunity to present our views and recommendations. I would, at this time like to take this opportunity to express our appreciation for the fine work done by the Commission and hope your final recommendations to the Congress will be given the proper recognition they deserve.

If you have any comments or questions, please do not hesitate to contact me.

Sincerely,

Byron I. Mallott /s

Byron I. Mallott
President

BIM:ts

• 550 WEST EIGHTH AVENUE ANCHORAGE, ALASKA 99501 • PHONE (907) 274-3611

Telegram

WFB186 WAF809(2058)(1-084759A119)PD 04/29/77 2056
ICS IPMAFUR ANB
407 A 03043 NL ANCHORAGE ALASKA 135 04-29 400P ADT
PMS MR ERNIE STEVENS
AMERICAN INDIAN POLICY REVIEW COMMISSION
HOUSE OFFICE BLDG ANNEX NO 2 202-225-1264
2ND AND D STS S W
WASHDC 20515
REGARDING NATIVE AMERICAN RIGHTS FUNDS COMMENTING ON THE ALASKA SECTION OF AIPRC REPORT AFN OFFERS FOLLOWING COMMENTS.
1. THE CONFERENCE REPORT ON ANCSA SPECIFICALLY DIRECTS THE SECRETARY OF THE INTERIOR AND GOVERNOR OF ALASKA TO PROTECT THE SUBSISTENCE RIGHTS OF ALASKA NATIVES CONTRARY TO HARFS ASSERTION THAT SUCH RIGHTS ARE TERMINATED.
2. ANCSA AS CLEARLY STATED IN AIRPCS ANALYSIS DID NOT TERMINATE ALASKA NATIVES; THEREFORE FOR PURPOSES OF FEDERAL LAW

Telegram

REGARDING AMERICAN INDIANS, ALASKA NATIVES HAVE SIMILAR STANDING AND PEROGATIVES.
3. ANCS CREATED CORPORATIONS AND MULTIPLICITY OF TRIBAL GROUPS IN ALASKA REQUIRES PRIORITIZING FOR PURPOSES OF PL 93-638. AFN HAS NO DIFFICULTY WITH AIPRCS RECOMMENDATION IN THIS REGARD.
4. AFN AGREES WITH AIPRCS ANALYSIS OF T AND N CENTRAL COUNCIL TRIBAL STATUS.
BYRON I MALLOTT PRESIDENT AFN
550 W 8TH AVE SUITE 102
ANCHORAGE ALASKA 99501 PHONE 907-274-3611

the alaska native foundation
515 "D" Street ■ Anchorage, Alaska 99501 ■ 274-5638

May 11, 1977

Mr. Ernest L. Stevens, Executive Director
American Indian Policy Review Commission
House Office Building, Annex No. 2
2nd Avenue and D Street, S.W., Room 3158
Washington, D.C. 20515

Dear Mr. Stevens:

I have received your tentative final report which arrived only a few days prior to your deadline for comments. It is unfortunate that copies were not circulated far in advance to receive maximum comments from the 70,000 Alaska Natives. I suppose, however, the same comment about more time has been your major criticism.

In reviewing the tentative final report, I find the only area mentioned as a problem area in Alaska is in "Land Claims." I must admit, there are substantial problems concerning the implementation of the Alaska Native Claims Settlement Act. However, the report fails to mention our problems in the area of education, health, social services, justice, and others. The implication that our only problem in Alaska is land claims may result in legislative and funding backlash towards Alaska Natives. Such a situation would be unfortunate as the unmet needs in Alaska are substantial.

Early in your administration we suggested that you and your staff utilize the 2(c) Report of Federal Programs and Alaska Natives completed by the Department of the Interior, two years ago. There is much valid material available in that report which could have been incorporated into your final report to the United States Congress. We once again make that suggestion and urge you to at least outline the 2(c) recommendations and conclusions in your final report as a very important addendum. The Department of the Interior should have piles of copies laying around somewhere in their offices.

Sincerely,

Gordon Jackson

c.c. Alaska Congressional Delegation
Alaska Federation of Natives

Willard E. La Mere
EXECUTIVE DIRECTOR

4550 N. Hermitage Chicago, Ill. 60640 (312) 728-1135

REC'D MAY 13 1977

May 6, 1977

Senator James S. Abourezk,
Chairman
American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2d and D Streets, SW.
Washington, D.C. 20515

Dear Senator Abourezk:

We substantially agree with the report Captives Within A Free Society: Federal Policy And The American Indian, prepared by your commission. The recommendations are good and would do much to improve the status of Indians if carried out. The emphasis placed on political self-determination and legal jurisdiction of the tribes is proper, since economic and social conditions are dependent on these factors to a large degree. Inter-tribal self-determination for American Indian urban communities is equally important.

The section on "Economic Development" should include urban Indian development, since it is likely that many Indians are in the city to stay. Tribal enterprises may involve urban as well as reservation Indians. If not included here, then the economic development of urban Indians should be discussed in "Off-reservation Indians". Some of the issues concerning urban Indian development are discussed in the enclosed "American Indian Business Association Proposal" (AIBA). Although urban Indians do not have the material resources of the reservations, they do have human resources and access to technical assistance, also, the capital for business enterprise. Off-reservation Indians not only deserve the same social services provided for reservations, but also the same economic development opportunities. The report should recommend not only support for urban Indian centers in providing social services, but also support for Indian development organizations such as the American Indian Business Association. ONAP has neglected their responsibility to foster Indian urban economic development. Also, HUD, though funding reservation housing, has done nothing with Indian contractors to improve the poor housing conditions of many urban Indians.

Dedicated to the creation and development of Indian owned Business.

The work upon which this publication is based was performed pursuant to contract 6-35673, with the Department of Commerce for the Office of Minority Business Enterprise.

Reservations can develop light industry and other labor-intensive businesses. This should be discussed in the "Economic Development" section. Non-Indian corporations and the BIA have recognized this potential. Unfortunately, the BIA stresses employment as the only goal of reservation industry, and many of these enterprises are neither owned nor managed by Indians. Tribal enterprises are often managed by non-Indians due to lack of skills on the reservation. The American Indian Business Association (AIBA) has found a need for basic management training, not only specialized technical assistance as mentioned by the commission. The report, rightly, puts a high priority on business education. This should exist not only on a professional level, but should be disseminated as widely as possible, as AIBA is doing through its management training workshops and consulting relationships. Furthermore, it is essential to tribal development that tribal government positions be paid. Volunteer council members presently do not have the time or energy to effectively plan and develop business enterprises.

Indians have historically been excluded from self-management experience and need technical assistance and management training, preferably provided by Indians. The sections on technical assistance (in Chapter 4) and business education needed (in Chapter 7) contain good recommendations in response to the situation.

Thank you for the opportunity to make our suggestions and comments known.

Sincerely,

Willard E. LaMere

Willard E. LaMere
EXECUTIVE DIRECTOR

Encl: AIBA Proposal

WEL/rl

THE AMERICAN INDIAN BUSINESS ASSOCIATION

The American Indian Business Association (AIBA) is an American Indian organization funded the past two years through the Commerce Department in order to create more Indian-owned businesses and strengthen existing ones in the region: Illinois, Wisconsin and Michigan. There are very few Indian businesses in proportion to the size of the Indian population.

Why should Indians enter the business world? First of all, it benefits the individuals putting their skills to work for their own profit. Secondly, Indian business benefits the American Indian community as a whole. Money spent for goods and services can stay within the community. As economists understand, a single dollar multiplies its effect as it circulates from on hand to another within a community. For example, let's say a dollar passes between an Indian buyer and an Indian seller: the buyer is satisfied with one dollar's worth of Indian goods or services and another Indian has the dollar to spend. That dollar is now spent again for a dollar's worth of Indian goods or services and another Indian has the dollar to spend. Each one has gained goods and services or another dollar of purchasing power. Thus the same dollar can benefit many Indians as long as it stays within the community. Now, the dollar usually benefits Indians once, only until it enters the white landlord's or merchant's pocket, and it does so immediately after pay day. Without the existence of Indian business and the circulation effect, economic progress is impossible for the Indian community.

The government has spent millions of dollars to help Indians, but with little effect. The money goes in one hand and out the other. Isn't it better to teach someone how to fish than to give them fish? The Indian community needs to make money and Indian enterprise, not just employment, is the answer. The budget of the American Indian Business Association, (AIBA) represents much less than 1% of all the government money spent on Indian programs in the region, even though it is the most efficient way to help Indians. It is not spending, but investment in Indian development.

AIBA offers many services to its clients and the Indian community. Prospective business people are helped in developing a business plan, getting loans, choosing a site, setting up record keeping systems, and marketing. Existing Indian businesses are helped to expand, procure more sales and contracts and improve the organization. AIBA offers management training workshops and technical assistance on specific problems. The AIBA staff keeps abreast of current opportunities and resources. There are now more opportunities than there are Indian entrepeneurs to pursue them. AIBA encourages Indians to enter the business world. It acts as a catalyst for Indian economic development in the region.

Association on American Indian Affairs, Inc.

432 Park Avenue South
New York, N. Y. 10016

MU 9-8720

Oliver La Farge, *President*
(1952-1963)

Alfonso Ortiz, Ph.D., *Vice*
Benjamin C. O'Sullivan, *Vice President*
Mrs. Henry S. Forbes, *Secretary*
H. Tinsley Ray, *Treasurer*
William Byler, *Executive Director*
Arthur Lazarus, Jr., Richard Schifter, *General Counsel*

April 20, 1977

The Honorable James Abourezk
American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2d and D Streets, S.W.
Washington, D.C. 20515

Dear Senator Abourezk:

Thank you for the opportunity to comment on the "tentative" final report of the American Indian Policy Review Commission.

We would like to restrict our comments to two matters only: child placement and water rights.

I. Child placement. (pp. 8-10 — 8-12). Apparently some of the copy has been inadvertently omitted from this section, as two of the pages end in mid-sentence. We urge that the Commission's final report adopt in their entirety the recommendations regarding child placement made by Task Force Four on pages 87-88 of their report.

II. Water rights. (pp. 7-37 — 7-42). This section is disappointing. A vague recommendation is made that Congress "investigate" litigation in several areas. No mention is made of the concept of congressional settlement of Indian water rights.

As tribes increasingly seek to assert their water rights and develop their resources they come into conflict with competing non-Indian interests. At present the parties rely almost exclusively on the courts for resolution rather than on negotiation. The decision of the court in turn may result in serious social unrest, as evidenced by the recent "Boldt" decision upholding Indian fishing rights in the Northwest. In many instances a negotiated congressional settlement would be in the best interests of all parties. We suggest that the AIPRC indicate its support for conflict resolution through legislative settlement when a tribe expresses its willingness to accept this alternative to litigation. (S.915, the Central Arizona Indian Tribal Water Rights Settlement Act of 1977, which was introduced by Senator Kennedy on March 4, 1977 at the tribes' request,

The Honorable James Abourezk April 20, 1977

may serve as a model of such congressional settlements.)

In a pre-election statement, President Carter indicated his support for the concept of such congressional settlements: "Indians have a historic, legal, and moral right to a fair share of available water resources. The ultimate resolution of conflicts concerning these rights, and the rights of others in the Southwest, will almost certainly be decided by the courts. In disputes concerning water rights, all sides must be assured full and competent legal representation. Legislation however may be necessary to speed the resolution of these conflicts, as an alternative to protracted litigation." (Indian Affairs No. 92)

We hope these comments will be of value to you, and we look forward to seeing the final report.

Sincerely,

Steven Unger

Steven Unger
Editor

SU:gn
Enc.

IMPORTANT

We recognize that you may not be able to thoroughly read and evaluate all parts of this Report within the time allowed for comment. However, in order to include your comments in our Final Report, this questionnaire must be completed and returned in the enclosed envelope postmarked no later than April 16, 1977. Our Final Report must be completed by May 15, 1977 for final Commission approval.

NAME *Syd Beane, Executive Director* ADDRESS *4025 North 2nd Street*

TRIBE/ORGANIZATION *Phoenix Indian Center, INC.* *Phoenix, AZ. 85012*

A. PLEASE CIRCLE ONE TO INDICATE YOUR IDENTITY AS:

Tribal Chairman — Tribal Governing Body — (Individual Indian)

Member of Congress — Organizational Governing Board

State Official — Private Citizen

B. PLEASE EVALUATE THE SECTIONS BY CHECKING THE BLANK WHICH MOST NEARLY REPRESENTS YOUR OPINION.

	Excellent	Good	Poor
The report as a whole is	XX		
I. History		XX	
II. Legal Concepts		XX	
III. Conditions		XX	
IV. Federal-Indian Relations	XX		
V. Tribal Government			
VI. Federal Administration	XX		
VII. Economic Development			
VIII. Social Services			
IX. Off-Reservation	XX		
X. Terminated Indians			
XI. Non-Recognized Indians			
XII. Special Problem Areas			
XIII. General			

C. HAVING READ THE RECOMMENDATIONS AT THE END OF EACH SECTION, PLEASE ANSWER THE FOLLOWING QUESTIONS.

1) Which recommendations should be given priority status? Why? Recommendation III. A. of the Federal-Indian Trust Relations section, pages 4-14 & 15, Recommendation 1. - page 131, of the Federal Administration Section, Off-reservation Indian Section recommendations related to Urban Indian Centers. These recommendations are basic to the delivery of services to Indian people under the Federal-Indian relationship.

2) Are there recommendations with which you disagree? Why?

3) Are there recommendations you would like to have added? Off-reservation Section: funds should be allocated for the development of urban Indian center facilities and legislation enacted if necessary to allow Indian Centers to directly receive such funds.

4) Do you feel the content of the report provides an accurate, useful picture of the situation? Yes.

5) Do you have any additional comments? I would like to commend the Commission and staff for their efforts in developing this excellent report.

F. SPACE IS PROVIDED ON THE FOLLOWING PAGES FOR YOUR SPECIFIC RECOMMENDATIONS.

Benton Paiute Reservation
U ta Uta Gwaita Paiute Tribe
106 South Main Street, Room # 7
P. O. Box 1525
Bishop, California 93514
(714) 873-7448

29 March 1977

American Indian Policy Review Commission
Congress of the United States
House Office Building, Annex No.2
2D and D Streets, S.W.
Washington, D. C.

Dear Sir(s):

Benton Paiute Reservation's Resolution No. 77-05

Enclosed herewith please find our above captioned resolution regarding the establishment of the American Indian Development Authority.

We sincerely hope this will be a help!

Sincerely,

Patti E. Wermuth
Staff Secretary

pew
encl.

Benton Paiute Reservation
Resolution No. 77-05

Subject: To support the American Indian Development Authority (AIDA) as recommended by the American Indian Policy Review Commission.

Whereas: The U tu Utu Gwaitu Paiute Tribal Council recognizes the need to establish economic development on the Benton Paiute Reservation; and

Whereas: The economic development of the Benton Paiute Reservation will be dependent upon capital development grants and management and technical assistance.

NOW, THEREFORE BE IT RESOLVED that the U tu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation supports the establishment of the American Indian Development Authority.

CERTIFICATION

We, the undersigned, as the duly elected Tribal Council members of the Benton Paiute Reservation, do hereby certify that the foregoing resolution was adopted at a Regular called meeting, duly called and convened on 23 MARCH 1977, 1977, at which a quorum was present, by a vote of 3 for, Ø against, and Ø abstaining, and that this resolution has not been rescinded or amended in any way.

TRIBAL COUNCIL:

Joseph C. Saulque

Joseph C. Saulque, Tribal Chairman

Mike E. Keller

Mike E. Keller, Tribal Vice-Chairman

absent

Bertha Willis, Member

Gerald Lewis

Gerald Lewis, Member

DATE: 23 March 1977

ATTEST: Patricia A. Gilmore

We recognize that you may not be able to thoroughly read and evaluate all parts of this Report within the time allowed for comment. However, in order to include your comments in our final report, this questionnaire must be completed and returned in the enclosed envelope postmarked no later than April 18, 1977. Our Final Report must be completed by May 15, 1977 for final Commission approval.

NAME Bernice Hedrick ADDRESS Box 82A, Berry Creek, CA 95916

TRIBE/ORGANIZATION Berry Creek Tribal Council - Maidu

A. PLEASE CIRCLE ONE TO INDICATE YOUR IDENTITY AS:

(Tribal Chairman) Tribal Governing Body Individual Indian

Member of Congress Organizational Governing Board

State Official Private Citizen

B. PLEASE EVALUATE THE SECTIONS BY CHECKING THE BLANK WHICH MOST NEARLY REPRESENTS YOUR OPINION.

	Excellent	Good	Poor
The report as a whole is	✓		
I. History		✓	
II. Legal Concepts		✓	
III. Conditions		needs improving	
IV. Federal-Indian Relations		needs improving	
V. Tribal Government		✓	needs improving
VI. Federal Administration		needs improving	
VI. Economic Development			✓
VII. Social Services			✓
IX. Off-Reservation			✓

The above things needs be improved.

93-440 O - 78 - 15

X. Terminated Indians _____ _____ ✓

XI. Non-Recognized Indians _____ _____ ✓

XII. Special Problem Areas _____ _____ ✓

XIII. General _____ Interspersing

C. HAVING READ THE RECOMMENDATIONS AT THE END OF EACH SECTION, PLEASE ANSWER THE FOLLOWING QUESTIONS.

1) Which recommendations should be given priority status? Why? Education, Our people need more education, Health, our heritage, cultures are very important to us as Indian people, all these are priorities. Also, as we can govern ourselves and conduct our business accordingly.

2) Are there recommendations with which you disagree? Why? The series of questions containing data on American Indians. You have all this data and don't, a rural and Urban Indians. We would like to see some thing done, to improve these poor conditions. Not just read about it. We are trying to improve our homes.

3) Are there recommendations you would like to have added? Yes, I would like to see our culture taught in school. So our children can learn our customs, and their heritage. Also, the services we offer. I think we should see that the Agency offices free to us, so we know what services are available.

4) Do you feel the content of the report provides an accurate, useful picture of the situation? Yes, to some extent, as some of these situations. I should say yes.

5) Do you have any additional comments? Yes, I think they should have education on Tribal government. The training here in California for Tribal government instead of having to go to Utah. As for the report it was pretty good.

F. SPACE IS PROVIDED ON THE FOLLOWING PAGES FOR YOUR SPECIFIC RECOMMENDATIONS.

CHAPTER (3) PAGE (3-18) PARAGRAPH (Health)

In the section beginning with the words "_____

_____," it is suggested that the

following addition, deletion or change in wording may be made, or the following

concept expressed differently: I would like to see these health services used better for our Indian people.

The Indian people want to live their life, with their children learning of their own ways, our culture, heritage, and customs. And also to better ourselves. We do a proud people.

Our main concern is education, Health, and self government.

We would like to see the Agencies carry out for the Indian people, the services that they should and were available to us and what services they have and what they are.

The "Rock" Tentative Handicap is very interesting.

IMPORTANT

We recognize that you may not be able to thoroughly read and evaluate all parts of this Report within the time allowed for comment. However, in order to include your comments in our Final Report, this questionnaire must be completed and returned in the enclosed envelope postmarked no later than April 16, 1977. Our Final Report must be completed by May 15, 1977 for final Commission approval.

NAME GENE BINDER ADDRESS _____

TRIBE/ORGANIZATION SCHOOL OF LAW UNIVERSITY OF PUGET SOUND TACOMA WASH 98416 _____

A. PLEASE CIRCLE ONE TO INDICATE YOUR IDENTITY AS:

Tribal Chairman | Tribal Governing Body | Individual Indian

Member of Congress | Organizational Governing Board

State Official | (Private Citizen)

B. PLEASE EVALUATE THE SECTIONS BY CHECKING THE BLANK WHICH MOST NEARLY REPRESENTS YOUR OPINION.

	Excellent	Good	Poor
The report as a whole is			
I. History		X	
II. Legal Concepts		X	
III. Conditions	X		
IV. Federal-Indian Relations		X	
V. Tribal Government	X		
VI. Federal Administration	X		
VII. Economic Development		X	
VIII. Social Services	X		
IX. Off-Reservation		X	
X. Terminated Indians	X		
XI. Non-Recognized Indians	X		
XII. Special Problem Areas	X		
XIII. General		X	

C. HAVING READ THE RECOMMENDATIONS AT THE END OF EACH SECTION, PLEASE ANSWER THE FOLLOWING QUESTIONS.

1) Which recommendations should be given priority status? Why? I THINK F.L. 246 SHOULD BE REVERSED. IT ACTS AS AN EXPA[illegible] ACT IN SO. FLORIDA'S VENTILE FARM OF STATE-LOCAL RELATIONS

MAKE FOR A TREMENDOUS AGENCY

2) Are there recommendations with which you disagree? Why?

3) Are there recommendations you would like to have added? FEDERAL POLICE [redacted] SHOULD HAVE GREATER AUTHORITY TO DIRECT CRIMINAL ACTIVITY ON WHAT THEY SHOULD DO IF THE LOCALS OR STATE INVESTIGATIVE AGENCIES REFUSE TO CO-OPERATE WITH THEIR REQUESTS

4) Do you feel the content of the report provides an accurate, useful picture of the situation? YES

5) Do you have any additional comments? SEE NEXT PAGE

F. SPACE IS PROVIDED ON THE FOLLOWING PAGES FOR YOUR SPECIFIC RECOMMENDATIONS.

NAME _____ ADDRESS _____

TRIBE/ORGANIZATION _____

RECOMMENDATIONS

Chapter ( ) Page ( ) Paragraph ( )

In the section beginning with the words "_____

_____," it is suggested that the following addition, deletion or change in wording be made, or the following concept expressed differently: _____

WITH RESPECT TO THE LEGAL-TRUST ANALYSIS, I HAVE TWO SUGGESTIONS TO MAKE. FIRST, I THINK MORE EMPHASIS SHOULD BE PLACED ON THE WINTERS DOCTRINE. IRRIGATION PROJECTS AND ENERGY DEVELOPMENT PLANS IN THE WEST WILL REQUIRE SUBSTANTIALLY GREATER AMOUNTS OF WATER. IT MAY BE THAT THE ONLY MEANS OF SUPPLYING THESE QUANTITIES OF WATER, ESPECIALLY FOR ENERGY DEVELOPMENT, WILL BE EITHER THROUGH EXERCISE OF OR INFRINGEMENT OF WINTERS RIGHTS. THE RESULTING CLAIMS WOULD EQUAL THE PRESENT JUDICIAL DOMAIN FISHING RIGHTS IN THE NORTHWEST.

MY OTHER PROBLEM COMES WITH RESPECT TO THE TRUST DOCTRINE IN THAT MY RESEARCH HAS FOUND, CONTRARY TO WHAT THE COURTS DECISIONS SEEM TO BE, THAT THE TRUST CONCEPT IS A FLEXIBLE TOOL FOR THE COURTS TO USE. IT IS VERY TIGHT WHEN ~~FINANCIAL~~ TRADITIONAL NOTIONS OF FIDUCIARY RESPONSIBILITY ARE INVOLVED (THE HANDLING OF MONIES) BUT AS IT GETS FURTHER AWAY FROM MONEY, THE TRUST BECOMES INCREASINGLY FLEXIBLE.

AMERICAN INDIAN POLICY REVIEW COMMISSION
CONGRESS OF THE UNITED STATES
WASHINGTON, D.C.

May 4, 1977

Senator James Abouresk, Chairman
American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2nd and D Streets, S. W.
Washington, D. C. 20515

Dear Mr. Chairman:

I am enclosing for consideration by the American Indian Policy Review Commission at its meetings of May 12 and 13, 1977, a provision which was discussed at previous meetings of the Commission, but never stated in specific language. I recommend inclusion of the following:

After the first paragraph on page 12-14 of the Commission's tentative final report add the following:

> Although their problems, and consequently their needs, do not differ markedly from those of their brothers in the lower 48, the vast size and severe climate of Alaska, coupled with wide dispersion of the Alaska Natives and limited transportation facilities, render it considerably more difficult and costly to meet the needs of the Alaska Natives than to meet the same needs of Native Americans elsewhere. Regardless how often articulated, the fact that it costs a great deal more to do almost everything in Alaska than any other place in the Nation, and that dollars don't go nearly as far in Alaska, are not really understood by many people.
>
> If it costs $25 thousand to provide a decent modest house in South Dakota for an Indian family of four, the cost of providing a comparable house in interior Alaska for a Native family of the same size might well be $80 thousand. The real magnitude of the difference between the costs of doing things and providing services in Alaska and elsewhere in the United States is seldom accomodated, even in programs where it is ostensibly

taken into account. And general standards, for example, of feasibility that must be met to qualify for the benefits of many programs are simply impossible to meet in Alaska.

Until the real magnitude of the difference in costs between doing things in Alaska and elsewhere is recognized and accomodated by those in Congress and the executive branch responsible for the design and funding of programs for Native people, the Natives of Alaska, when not completely foreclosed, are not going to receive benefits from such programs comparable to those received by other Native Americans.

After the first paragraph on page 12-14, strike the first two words "But they" and substitute therefore the words "The Alaska Natives."

Sincerely yours,

John Borbridge, Jr.

John Borbridge, Jr.
Commissioner

AMERICAN INDIAN POLICY REVIEW COMMISSION
CONGRESS OF THE UNITED STATES
House Office Building Annex No. 2
2d and D Streets, SW.
WASHINGTON, D.C. 20515
PHONE: 202-225-1554

May 4, 1977

Senator James Abourezk, Chairman
American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2nd and D Streets, S. W.
Washington, D. C. 20515

Dear Mr. Chairman:

The enclosure contains my comments regarding the Native American Rights Fund (NARF) critique of the American Indian Policy Review Commission report on Alaska. The critique was the subject of a telephone conversation on May 2, 1977, at which time the gist of the enclosed document was conveyed.

I appreciate the opportunity provided to comment on the issues raised by the Native American Rights Fund in regard to the Alaska section of the Final Report.

Sincerely yours,

John Borbridge, Jr.

John Borbridge, Jr.
Commissioner

Attachment

[illegible]

AMERICAN INDIAN POLICY REVIEW COMMISSION
CONGRESS OF THE UNITED STATES
House Office Building Annex No. 1
2nd and D Streets, SW.
WASHINGTON, D.C. 20515
PHONE: 225-225-1234

The following constitute my comments relative to the statements regarding Alaska contained in the document prepared by the Native American Rights Fund (NARF).

I

Alaska Natives

Alaska Native Claims Settlement Act

NARF takes the position that the Alaska Native Claims Settlement Act (ANCSA) adversely affected the sovereign powers residing in the Alaska Native Communities.

The Commission has concluded that historically the relationship between the Alaska Native Tribes and the United States is the same as that between the Indian Tribes of the lower 48 and the United States; that historically the Alaska Native Tribes possessed the same powers of sovereignty as are possessed by the Indian Tribes of the lower 48; and that the Settlement Act did not essentially alter the

status of the traditional Alaska Native Tribes or their relationship to the United States or diminish their powers. Most of the comments made by NARF in opposition to this conclusion are ultimately irrelevant and betray a profound lack of understanding of the Alaska Native history and circumstances.

Although the Settlement Act provided for the creation of new entities to accomplish its purposes, it largely left the traditional native entities alone, neither adding to nor detracting from whatever rights, powers, privileges and immunities they possessed before its enactment. While it is true that the act expressed a policy against creating any new racially defined "enclaves" or institutions or trusteeships, it did not, except in a handful of cases, undertake to change any existing institutions or relationships. Except in the case of those few native groups for whom reservations had been created, as far as the traditional native tribes are concerned, the Settlement Act changed nothing.

The Commission recognized, because the traditional Alaska Native Tribes, by and large, were not involved with reservations, that they had no occasion to exercise some of the powers of sovereignty exercised by other Indian Tribes over defined territories (Indian

reservations). Alaska Natives insist, however, that other powers traditionally exercised by tribes that were not powers exclusively associated with or derived from land ownership, were among "residual" tribal sovereignty powers appertaining to their status. It is nonsense to suggest that the basic relationship existing between the Tlingit and Haida Tribes, for example, and the United States was altered because the Settlement Act, for example, provided for state taxation of native lands. The simple fact is, with few exceptions, that the traditional Alaska Native Tribes had no land tax exemptions to be affected by the Settlement Act. And, what the revocation of the applicability of the Indian Allotment Act has to do with the status of the traditional Alaska Native Tribes and their relationship to the United States, is beyond me.

Indian Self Determination Act

NARF takes the position that the Indian Self Determination Act is better administered by small native entities rather than large ones.

The Commission has tentatively concluded as a matter of policy that for the purposes of receiving benefits under the Indian Self-Determination Act larger entities should generally be given preference over smaller ones and tribal type entities should generally be given preference over other types of entities.

NARF's objections to these policy determinations are not representative largely of the Native feeling in Alaska. NARF reflects the role usually assumed in Alaska by "outside" bureaucrats who decide that they know what is best--thus obviating the necessity of eliciting comment directly from the people. As it is a matter of policy, it is for the Commission, guided by responsible representatives of the Alaska Natives, and not for others who are unaffected by applicable policy, to decide such a basic question. While the appeal for village autonomy, such as suggested by NARF, has a nice democratic ring, the plain facts are that the larger the entity, the better it is able to cope with a swollen bureaucracy and to insure benefits are received where needed as opposed to placing authority in small, unsophisticated entities scattered through Alaska which are subjected to being divided and conquered by the bureaucracy. The irony derived from the current administration of the Indian Self Determination Act is that the B.I.A. has used that legislation to erode tribal governing status in Alaska - a result neither desired nor contemplated by the Act.

Tlingit and Haida Central Council

NARF contends that Congress has not recognized the Central Council as the general and supreme governing body of the Tlingit and Haida Tribes.

This contention, on the whole, simply ignores the legislative history of the relevant acts of Congress regarding the Tlingit and Haida Central Council, particularly those of August 19, 1965 and July 13, 1970. While it is true that the Act of August 19, 1965 (79 Stat. 543), which provided for the organization of the Central Council under rules of election approved by the Secretary of the Interior, stipulates that this body "shall be the official Central Council of the Tlingit and Haida Indians for purposes of this Act," it is not true that the authority of the Council was intended by either the Congress or the Department of the Interior to be limited to matters related to the Tlingit and Haida claims against the United States.

Nor is it true that the status of the Central Council as the general governing body of the Tlingit and Haida Tribes rests solely on the 1965 Act, although, in light of its legislative history, that act would suffice to establish it as such.

Two subsequent acts of Congress, together with their legislative histories, establish the status of the Central Council beyond any legitimate doubt. These are the Act of July 13, 1970 (84 Stat. 431), providing for the disposition of the Tlingit and Haida judgment funds, and the Act of December 18, 1971 (85 Stat. 688), providing for overall settlement of the Alaska Native Land Claims.

Three times in the last six years Congress has been called upon to address issues involving the organization for purposes of self-government of the Tlingit and Haida Indians of Southeast Alaska.

In 1965, it was advised by the Department of the Interior of the need to provide for the organization and recognition of a tribal governing body, truly representative of these Indians, with which the Department could deal, not just in connection with matters relating to their claims against the Government, but generally.

Congress responded by passing the 1965 Act, which it had been informed by the Department would accomplish this purpose. The reports of the Interior Committees which underlie that act show beyond cavil that this is what Congress understood and intended to be its effect.

Thereafter, the Central Council was organized in accordance with the requirements of the 1965 Act under rules of election and a constitution which expressly established it as the general governing body of the Tlingit and Haida Indians.

These documents and the operations of the Central Council since its organization have subsequently been laid before and considered by

Congress in connection with the enactment of the Tlingit and Haida judgment fund distribution act of 1970, and the Alaska Native Claims Settlement Act of 1971.

In their reports accompanying the bills that became the 1970 act, the Interior Committees of both houses of Congress unequivocally stated their understandings that the Central Council organized under the 1965 act is "the governing body of the Tlingit and Haida Indians."

And, in the Alaska Native Claims Settlement Act of 1971, Congress assigned the implementive and organizational responsibilities for the Natives of Southeast Alaska exclusively to the Central Council.

In the light of these acts of Congress, and of their legislative histories, I submit that no conclusion is sustainable other than that the Central Council is the general governing body of the Tlingit and Haida Indians of Southeast Alaska.

John Borbridge, Jr.

John Borbridge, Jr.
Commissioner

93-440 O - 78 - 17

Browning Public Schools

SCHOOL DISTRICT NO. 9
Browning, Montana 59417

April 21, 1977

American Indian Policy Review Commission
House Office Building Annex #2
2nd and D. Streets, S.W.
Washington, D. C. 20515

Dear Sirs:

Please find enclosed a copy of an A.I.P.R.C. Workshop report. The report is the product of a two day workshop as hosted by the Montana Inter-Tribal Policy Board. Contained within are A.I.P.R.C. "Tentative Final Report" chapter presentations and recommendations as generated by workshop participants.

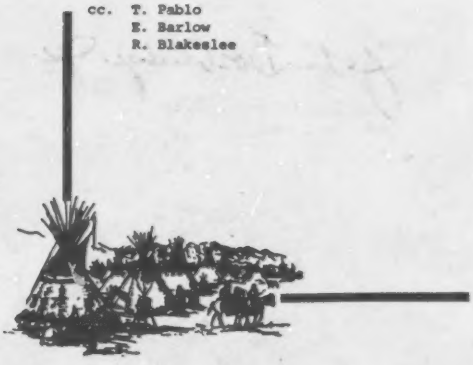
The workshop participants hereby respectfully submit their recommendations and input for this historic study.

Sincerely yours,

Tom Thompson
A.I.P.R.C. Workshop Recorder

TT/er

cc. T. Pablo
E. Barlow
R. Blakeslee



AMERICAN INDIAN POLICY REVIEW COMMISSION

MINUTES & RECOMMENDATIONS

FROM AN A. I. P. R. C. WORKSHOP

AS SPONSORED BY

THE MONTANA INTER-TRIBAL POLICY BOARD

MONTANA STATE UNIVERSITY

BOZEMAN, MONTANA

APRIL 14-15, 1977

Table of Contents

I. Introduction.....pp. 1-3

II. A.I.P.R.C. "Tentative Final Report"
Chapter presentations/recommendations.....pp. 3-16

III. Conclusion.....pp. 16

APPENDIX A - MONTANA INTER-TRIBAL POLICY BOARD MEMORANDUM

APPENDIX B - A.I.P.R.C. WORKSHOP PARTICIPANTS

APPENDIX C - AMERICAN INDIAN POLICY REVIEW COMMISSION
P.L. 93-580

APPENDIX D. - LETTERS

INTRODUCTION

On April 14-15, 1977, the Montana Inter-Tribal Policy Board sponsored a workshop relative to the American Indian Policy Review Commission. The primary objective of the workshop was to generate comments for submission to the A.I.R.P.C. per its April 23, 1977 deadline. The seven Montana Indian reservations and the landless were to report on and make recommendations regarding two (2) of the chapters contained in the A.I.P.R.C. "Tentative Final Report." (For further information, see Appendix A.)

Thursday, April 14, 1977

Mr. Tom Fablo, Chairman, M.I.T.P.B., called the meeting to order and introduced the workshop participants (see Appendix B). It was noted that several tribes were not in attendance and that those tribal council representatives present were not prepared to follow the original format of the workshop. After a brief discussion, Mr. Pablo introduced Earl Barlow, A.I.P.R.C. Task Force #5 member.

Mr. Barlow gave an overview of the history and purpose of the American Indian Policy Review Commission, P.L. 93-580, and stated that the Commission report would probably be a key factor for several years in shaping governmental policies and programs relative to Alaskan Natives and American Indians. (For further information, see Appendix C.)

Mr. Barlow then turned the meeting over to Mr. Dwight Billedeaux, workshop moderator. Mr. Billedeaux in turn introduced Tom Thompson, workshop recorder. Mr. Billedeaux reaffirmed the fact that several tribal representatives were not in attendance and that in general, the workshop participants were not prepared to follow the original format of the workshop. Mr. Billedeaux then asked for suggestions. After a brief discussion, it was the consensus of the participants that the intent of the workshop was extremely vital and of much importance to all Indian people. The participants agreed to divide the A.I.P.R.C. "Tentative Final Report" chapters and to report and make recommendations on the following day (April 15, 1977.)

The following represents the revised list of presentors:

Chapter 1 - "History of United States--Indian Relations" - Dwight Billedeaux

Chapter 2 - "Legal Concepts in Indian Law" - Rena Blakeslee

Chapter 3 - "Contemporary Conditions of Indians" - Unassigned (Participants felt that the report/recommendations would be obvious.)

Chapter 4 - "Indian Trust Relations" - Ray Dupuis

Chapter 5 - "Tribal Government" - Roland Kennerly

Chapter 6 - "Federal Administration" - Tom Whitford/Ivan Raining Bird

Chapter 7 - "Economic Development" - Vicky Desonia

Chapter 8 - "Social Services" - Ron Sullivan

Chapter 9 - "Off-Reservation Indians" - Pat Morris

Chapter 10 - "Terminated Tribes" - Karen Fenton

Chapter 11 - "Unrecognized Indians" - Karen Fenton

Chapter 12 - "Special Circumstances--Alaska--Oklahoma--California" - Unassigned (Participatns felt any recommendations would be inappropriate in that Indian/Alaska Natives from the three states affected should be the respondents.)

Chapter 13 - "Miscellaneous" - Earl Barlow

Chapter 14 - "Dissent by Congressman Lloyd Meeds" - Earl Barlow

Mr. Billedeaux urged the participants who were not responsible for chapter presentations to independently read one or more so that all participants could participate in the second day of the workshop. Mr. Billedeaux urged all presentors to prepare notes and to submit the same to Mr. Thompson. The workshop/N.I.T.P.B. meeting was recessed at 12:00 Noon on April 14, 1977, until 9:00 a.m. April 15, 1977.

NOTE: (Mr. Henry Old Coyote gave a brief presentation to the participants and informed them that he, along with two other Montana Indians, A. Parker and E. Ducheneaux, were recently appointed to the U. S. Senate Select Committee on Indian Affairs. Five (5) Senators are currently working/investigating matters pertaining to American Indians. Mr. Old Coyote stated that three Indian staffers were chosen from Montana since it (Montana) was the "hot spot" in matters such

as jurisdiction, sovereignty, etc.)

Friday, April 15, 1977

Mr. Tom Pablo, Chairman, M.I.T.P.B., called the meeting to order and promptly asked the workshop moderator, Mr. Billedeaux, to preside. Mr. Billedeaux then asked each presentor to prepare for his/her presentations. The following represents the "essence" of each presentation. It should be noted that the recommendations accompanying each presentation do not reflect the thinking and/or priorities of all members of the M.I.T.P.B., nor do they reflect the priorities of all of Montana's Indian people, but rather are the thoughts and priorities of the workshop participants either individually or collectively.

Chapter 1 - "History of United States--Indian Relations" - Dwight Billedeaux

Comment:

"The first chapter is broken into three parts: The Formative Years, The Strategy of Assimilation, and the Right to Choose. It is entitled "Captive Within A Free Society, Federal Policy and The American Indian." It prepares or sets the stage for the American Indian Policy Review Commission's study. It presents the historical facts by defining the issues, giving examples and causes and effects. It is the basis that will set the discussion, recommendations and resolutions for this meeting.

The first section sets Indian policy through 1871 and discusses the following: Colonial period as it parallels that same Indian period. Treaty making, War of Independence and the punishment of the Indian tribes that allied with the British. The Conquest Theory, Secretary of Way, Henry Knox's declaration that tribes were to be treated as foreign nations. Also discussed was President Thomas Jefferson's treatment of the Indians (neglect, take, steal, bribe, and ignore) so called "civilization" of Indians. His gradual process of civilization failed. The Indian Removal Act - 1830, Intercourse Act - 1802, Cherokee Nation v Georgiz - 1831, Worchester v Georgia - 1832--all landmark decisions ignored by Jefferson. Removal treaties, effect of the railroad on Indians, Mexican Session 1848, and gold discovery 1949, further open Indians to exploitation. Department of Interior formed 1849, withholding of annuities, were also afforded much discussion.

The second part discusses policy development from 1871 to 1920. It discusses the beginning of Indian education, Ex Parte, Crow Dog decision 1885, Congress passed the Major Crimes Act, Great Land Conspiracy, General Allotment Act or the Dawes Act, Burke Act issues "certificates of Competency."

The third part is "A Policy of the Future" which we are attempting to analyze.

In general, the chapter provided an excellent overview of U. S. policies relating to American Indians."

Recommendations:

Mr. Billedeaux stated that since the first chapter is purely informational, that recommendations would be inappropriate.

Chapter 2 - "Legal Concepts in Indian Law" - Rena Blakeslee

Comment:

"As stated in the opening paragraph of this chapter: This Commission's charter from Congress, reflecting two hundred years of legislative and executive action, aptly describes the relationship between the United States and American Indian tribes as "unique" and "special." Such words have repeatedly been emphasized by the United States Supreme Court in opinions stretching across almost one and one-half centuries. The unequivocal message from all three brances of our federal government is that Indian law and policy is a field unto itself.

It is almost always a mistake to seek answers to Indian legal issues by making analogies to seemingly similar fields. General notions of civil rights law and public land law, for example, simply fail to resolve many questions relating to American Indian tribes and individuals. This extraordinary body of law and policy holds its own answers which are often wholly unexpected to those unfamiliar with it.

There were no summaries or recommendation in this chapter. Chapter 2 did, however, cover tribal sovereignty, trust relationships, Congress' broad constitutional authority over Indian affairs, and the question: 'Who is an Indian?' Indian tribes are governments. Because of their sovereignty, they inherently possess all powers held by a government. No tribes exercise the full range of their powers but there is a definite thrust of tribal policy for a greater use of those powers.

The United States has a special and unique duty toward American Indians. This duty has always been recognized by the courts and has been characterized as a trust responsibility. The United States has the obligation to provide services and other appropriate action necessary to protect tribal self-government. The Bureau of Indian Affairs, the primary agent of Congress, is to provide administration of trust responsibility, and it has been proven that the B.I.A. has used the trust doctrine as a means to develop a heavy-handed control over the day-to-day affairs of Indian individuals and tribes."

Recommendations:

"I made no recommendations on the Plenary Power of Congress on tribal governments but I have made a few on the others:

1. All tribes should be accorded full jurisdiction over land, people, etc., including non-Indians;

2. State and Federal courts should be compelled to recognize tribal

law and judgments of tribal courts;

3. Political science texts should state, recognize, and teach tribal governments;

4. Protection should be vested in the tribal courts to enforce tribal laws;

5. A separate Department of Indian Affairs should be created and the Indians should be able to assist in the planning;

6. B.I.A. funds should go directly to the tribes;

7. There is a need for immediate attention being given to Indian claims against the government;

8. A policy is needed to ensure trust protection and enhancement;

9. Financial aid and legal remedies must be available/provided against Federal violations of trust protection;

10. If Federal and state governments appropriate funds to determine jurisdiction matters, the same amount of money should be set aside for tribal governments to use;

11. There is a need for tribes to determine a reliable definition of "who is an Indian." A universal definition would be preferred."

Chapter 3 - "Contemporary Conditions of Indians" - Unassigned

As indicated earlier, the participants felt this chapter should be unassigned since comments and recommendations would be obvious to most Indian people.

Chapter 4 - "Indian Trust Relationships" - Ray Dupuis

Comment:

"Federal-Indian trust relationship has had a history of being ambiguous. Actually, the trust responsibility by the Federal Government to the Indian has always been present. It is the interpretation of the responsibilities where weaknesses are found. And those interpretations have resulted in varied and inconsistent policies.

Throughout the history of the trust relationship between the Federal Government and the Indian, there has been a conflict of interest within the Department of Justice and the Department of Interior when legal services were required to protect, enhance, or enforce the Indians rights. The conflict of interest arose when other Federal Government agencies, i.e. Bureau of Reclamation, Bureau of Land Management, Bureau of Fish and Wildlife, and the Corps of Engineers, became involved in making policy decisions which resulted as a direct conflict between the responsibilities to the general public and the responsibilities to the Indian people. Generally, it was the Indian who suffered.

The Indians' inherent right to sovereignty must be protected, enforced

and enhanced to eliminate any further deletion of the Indians' sovereign right to self-government."

Recommendation:

1. "There has been an eroding of the trust responsibility relationship which exists between the Federal Government and the Indian people. This erosion has occurred through varied and inconsistent policies. (Which have been a direct result of interpretations of where the trust responsibility begins or ends.) Halting the erosion is a mandate and positive policy must be adopted to insure protection, enforcement and enhancement of the trust responsibility towards the Indians by the Federal Government;

2. There is a need for legal representation for Indians. This would help eliminate the conflict of interest issues (State and Federal);

3. The Congress should establish an Office of Trust Rights Protection whose duties could include but not be limited to:

   a. Inventorying Indian trust property;

   b. Assist in management of that property;

   c. Advise Indian/tribes in legal matters;

   d. Represent Indians/tribes in all litigation and administrative proceedings;

   e. Establish field offices at area levels for easy access by the Indians/tribes;

4. The Congress should initiate a study to determine how Public Law 280 has affected the reservations within states who are considered 280 states;

5. There is a need for a study on Federal-Indian trust responsibility relationships to determine if direct tribal representation is desirable at the Congressional level;

6. There is a need for a closer working relationship between tribes and the Office of Management and Budget;

7. Finally, there is a definite need for follow-up by a committee to monitor the status of A.I.P.R.C. recommendations and to determine if any have influenced or have been adopted by the Congress."

Chapter 5 - "Tribal Government" - Roland Kennerly

Comment:

"As stated in the chapter overview: 'Tribal government today is at a crossroads of history. Simply put, the question is whether tribes are going to be permanent, on-going political institutions exercising the basic powers of local government or whether they are to be transient

bodies relegated to mere "service delivery vehicles" for Federal assistance programs; more "Federal instrumentalities" for the control of the social behavior of their own tribal membership pending their ultimate assimilation into the dominant society which surrounds them. This is the fundamental question for the future of Indian tribes and the fundamental question which the Congress must resolve in the formulation of the future course of Federal-Indian policy.'

In addition, Indian people are concerned about the role of the Bureau of Indian Affairs in regard to the implementation of the U. S. trust responsibility to Indian people. Moreover, Indian people have registered numerous allegations and have charged the B.I.A. with:

1. Directly interfering in tribal elections.
2. Usurping one of the most basic powers of self-government--the right to determine membership, by conditioning BIA funding on BIA-determined membership qualifications.
3. Playing off one tribe against another in compotition for funding.
4. Conditioning BIA funding or delivery of services on the level of of cooperation between tribal members and agency or area office employees.
5. Failing to respond to tribal requests for legal assistance.
6. Failing to respond to tribal requests for financial assistance.
7. Failing to respond to tribal requests for technical assistance.
8. Failing to assist tribes in asserting their sovereign powers.
9. Entering into leases or contracts on behalf of the tribe without tribal approval.
10. Specifically acting to diminish tribal exercise of powers of self-government.
11. Terminating tribal employees from area office employment without notification to tribe.
12. Allocating judgment funds without approval of tribal council.
13. Displaying nepotism and favoritism in agency office hiring practices.
14. Withholding information on tribal trust resources from tribe.
15. Advising tribal members to sell their land to qualify for state welfare.
16. Failing to act upon tribal requests for Secretarial approval of contracts.
17. Failing to act upon tribal request for Secretarial approval of

tribal constitutions, constitutional amendments, ordinances, resolutions, charters.

18. Mismanaging tribal trust assets and resources.

19. Obstructing tribal negotiations with Federal agencies.

20. Discouraging tribes from contracting Federal programs which would obviate Bureau services.

21. Distributing Federal program monies in an arbitrary manner, relying upon the broad discretionary power of the Secretary."

Recommendation:

Mr. Kennerly indicated that he agreed with the report in general and found it to be both concise and valid. He also indicated concurrence with all findings and recommendations as listed in the chapter. In addition, Mr. Kennerly was adamant about the need for protection, preservation and enlargement of the Indian land base.

Chapter 6 - "Federal Administration" - Tom Whitford and Ivan Raining Bird

Comment: (Ivan Raining Bird)

"I generally agree with the statements and recommendations in the chapter. I do, however, feel that the following should be deleted from page 12, 3rd paragraph: 'and administrative regulations, which require tribal governments to come under state jurisdiction'

I feel that the content of this chapter provides an accurate, useful picture of the situation. In closing my comments I will read a prepared statement from our tribal council:

'We, from Rocky Boys Reservation are opposed to the recommendations made by Senator Meeds. The Chippewa Cree have pending treaty claims. We should request to extend the lifetime of the Indian Claims Commission until such time that all Indians are satisfied.

Today the Montana Tribes are confronted with Joint Resolution 35. This again is one goal that Senator Meeds is pushing for (state jurisdiction). There are many good things that the Policy Review Commission have recommended. We believe as a group we should support these in every way possible.'"

Recommendations:

Mr. Raining Bird indicated that he endorsed all of the recommendations in Chapter 6, but offered on additional recommendation:

"The Congress should have all monies meant for Indians go directly to the tribes and not be channeled through states."

8

Chapter 7 - "Economic Development" - Vicky Desonia

Comment:

"Conflict of Federal trust responsibility in economic development is a major detriment as evidenced by BIA management of Indian forests, lease lands, governmental discouragement of land acquisition and consolidation, and inconsistencies in state and Federal taxation. Long range tribal planning is impeded by the funding systems on which tribes depend which are basically short-term. Exploitation of Indian natural resources by non-Indian interests does not result in economic development. The goals of self-determination and a high standard of living can only be realized if Indian people maintain control of their land and resources. Government should encourage Indian-controlled programs.

I am going to ask Mr. Lucas, from our office, to submit a separate comment and list of recommendations."

Recommendations:

Ms. Desonia agreed with the context of the recommendations in the chapter but offered the following additions:

1. "Congress should encourage individual as well as tribal economic development with continuation of the Indian Finance Act with reappropriation of funds and full implementation of the loan programs;

2. Indian heirship problems need to be resolved in order for effective administration and economic development. Congressional support and funding for investment capital for economic development is a real need."

Note:

Mr. Barney Old Coyote stated that he felt the economic development chapter was not "harsh" or "direct" enough in terms of its statement and subsequent recommendations. He felt that the chapter was too "grant oriented" and not more appropriately "capitalistic" in view of an approximate Indian land base of 295 million acres and billions of dollars in resources. He closed by stating that Federal policies promoted "big business" in terms of the investment of "Indian money."

Chapter 8 - "Social Services" - Ron Sullivan

Comment:

"Indian welfare recipients face a bureaucratic logjam. They must contend with a poorly defined three tiered system of programs on the Federal, state and local levels. The confusion arising from these overlapping and sometimes conflicting programs has led to inefficiency and abuse in the delivery of Indian welfare and social services.

Social services programs that relate to Indian people are both underfunded and understaffed. Whose responsibility is it? State? or

Federal? in terms of the provision of Indian social services? This needs to be determined. This year, as an example, the Montana State Legislature has turned down all bills relative to Indian educational and social services."

Recommendations:

Mr. Sullivan stated that the recommendations as outlined in the chapter were good, but in closing, he offered the following additions:

1. State legislatures should recognize tribes as "local governments" thus making them eligible for the direct receipt of Federal funds.

2. Congress should endeavor to clarify Federal/state responsibilities in relation to the responsibility in providing education/social services to American Indians and Alaskan Natives.

Note:

At this time Mr. Tom Thompson stated that there was an obvious dichotomy of purpose in terms of tribal sovereignty, Indian self-determination vs. educational and social programs that in general are "compensatory" in nature. He further stated that as long as tribes are not semi or totally independent financially, and as long as the Federal and state governments controlled the funds and programs, that these would always be "strings attached." Mr. Thompson recommended that the Federal Government be asked to formally recognize its basic legal obligation to provide Indian educational and social services.

Chapter 9 - "Off Reservation Indians" - Pat Morris

Comment:

I. Introduction

..."Indians who remain in cities and those who migrate to and from the cities have special needs and their fulfilment is based on certain Indian rights which must be recognized"

II. Major policy issue

How far does trust responsibility extend:

III. Historical Overview

Government has not recognized their responsibility for the creation of off reservation Indians through assimilation programs.

Government view is that to move off the reservation is to break trust status and move toward assimilation

examples: (a) Dawes Act/General Allotment Act of 1877
(b) Off Reservation Boarding Schools
(c) Relocation Programs

Result is the movement of Indians from tribal lands into cities.

Conclusion

"Federal government after creating Urban migration has failed to provide adequate services and address the special needs of Indian people, particularly in the areas of housing, health and employment.

Why?

Historically the executive Branch has tried trust relationship to land Yet, no court, act of congress or constitutional provision states trust responsibility "stops at the reservation gate"

IV. In Brief

Government View:

Indian trust is equated with land
assumption that if Indian leaves the reservation he is consciously forsaking his heritage and tribe.

Indian View

Indian trust includes land and individual people of tribe

Indian leaves reservation because of government proding and lack of housing, employment and education programs on the reservation.

Indian does not forsake his/her heritage. The overwhelming majority of off reservation Indians continue to be tribal members

Failure of reservation to support all tribal members is a function of government planning.

Yet
...the Federal Government refused and largely still refuses to recognize any overall trust responsibility to provide services.....to off reservation Indians"

Recommendations:

"Indian Response

Recommend:

Federally funded urban Indian Centers which are the focus of Indian managed urban human services related to housing, health and employment.

1. emergency situations
2. personal and financial counseling
3. referral and non-reservation orientation
4. insure flow of public monies

11

How the Urban Indian Centers would be organized -

1. Redirect Federal, State and local programs to Indian Centers for administration.

   Only programs for which tribes would not eligible would be involved. i.e. Urban program funds

2. At no time would the Indian Center "take over the relationship between the tribal government and the tribal member

3. Tribal government would be a viable alternative. Tribes could assist and monitor funds for urban Indians."

At the end of Chapter 9 is a list of recommendations concerning Urban off-reservation Indians (9-19) to which Mr. Morris indicated a general concurrence.

Mr. Morris closed by calling attention to page 9-9, paragraph 1, second sentence: "...that the exclusion of non-reservation Indians..." He further stated that "non-reservation" had a distinct difference in connotation from "off-reservation" and that "non" should be changed to "off".

Chapter 10 - "Terminated Tribes" - Karen Fenton

Comment:

"Termination refers to an entire era of Federal-Indian relations, it was an era when the U. S. extended its assimilation philosophy to diminish and in some instances end Federal responsibility to, and protection of, Indian tribes. Some of the indicated explanations for that particular era are:

(1) notion that the way to cure poverty among Indians was to integrate them into the dominant society;

(2) Indian and Congressional disgust at BIA operations;

(3) perceived inadequacy of law and order on or near reservations;

(4) desire of non-Indians to obtain valuable tribal lands;

(5) Federal Governments desire to shift its economic expenditures "burden" to the states.

In a technical sense, termination refers to those 13 legislative acts which authorized procedures for cessation of the Federal-Indian relationships of particular tribes. Not all tribes slated for termination were in fact terminated. There is a current question as to the legality of some of the terminations of the California Rancherias. This question has been raised because of the failure of the Federal Government to follow statutorily mandated procedures. Non-compliance raises many legal issues including the potential liability of the U. S. for unlawful termination. Many view that court action against the U. S. would be favorable.

The termination era was an out-growth of a century of assimilation policies.

Recommendations:

Ms. Fenton closed by stating that she was in concurrence with the chapter recommendations.

Chapter 11 - "Unrecognized Indians" - Karen Fenton

Comment:

Ms. Fenton began by quoting from the chapter introduction:

"The Executive Branch of the United States fails to administer Indian programs to a number of Indian tribes. With the singular exception of specific termination acts, there is no legal basis for the Executive Branch's exclusion of tribes from its general services to Indians, and there is no legitimate foundation for administrative discretion in identifying the Indian services population. Through a number of historical circumstances or coincidences, tribes were simply ignored or forgotten. Because these tribes have been forgotten, their rights to land and self-determination have been overlooked as well as their rights to federal Indian programs. Today, many of these tribes have land title problems, jurisdictional questions, poor health, few educational opportunities, and economic difficulties; yet the Bureau of Indian Affairs offers them no assistance in these areas. Many state and county governments are perplexed by the nebulous political status these tribes hold."

Recommendations:

Ms. Fenton stated that in general she disagreed with the recommendations of the chapter unless recommendations such as the following were contingent upon increased Congressional appropriations commensurate with non-recognized tribal membership:

1. The Federal Government should extend its Indian programs to all Indian tribes.

2. To dispel administrative hesitations and to clarify the intention of Congress, Congress should adopt in a concurrent resolution a statement of policy affirming its intention to recognize all Indian tribes as eligible for the benefits and protections of general Indian legislation and Indian policy; and directing the Executive Branch to serve all Indian tribes.

Chapter 12 - "Special Circumstances--Alaska-Oklahoma-California" - Unassigned

As indicated earlier, the workshop participants felt that this chapter could be addressed best by American Indian/Alaska Native people who reside in the aforementioned states.

Chapter 13 - "Miscellaneous" - Earl Barlow

Comment:

"There is throughout most levels of American society a substantial lack of knowledge concerning the legal, social, and political status of Indian people and tribes and their history on this continent."

Recommendations:

Mr. Barlow indicated a general concurrence with the recommendations of this chapter including the initial recommendation as listed on page 13-1:

"Congress by appropriate legislation should provide funds for the development of educational programs concerning Indian people."

In closing, Mr. Barlow offered the following additional recommendations:

1. Appropriate federal officials working in cooperation with representatives of tribal governments should study tribal governments and formulate a process by which such governments will be periodically reviewed by Indian people and recommended changes voted upon by eligible tribal electors.

2. The B.I.A. should be studied and restructured if necessary in order to make it more responsive to the needs of Indian people. A greater proportion of funds and services should be channeled directly to the people. Overhead or administrative costs of the B.I.A. are too high and must be reduced. Also, the high ratio of B.I.A. and I.H.S. employees to Indians must be reduced.

3. Indian preference for employment in the B.I.A. and I.H.S should be continued and funds provided for training and recruitment of Indians to fill vacated positions.

4. An adequate land base is essential to the survival of Indians residing on Indian Reservations. Population pressure and a dwindling land base are two factors which have forced Indian people to migrate to urban areas. A program to maintain the current land base and expand the base in the future should be assigned a high priority.

5. The heirship policy which governs the inheiritance of Indian allotments is unrealistic and should be changed. In many instances there are so many heirs that none benefits from the land. A funding program should be set up whereby the land can be purchased for the benefit of the tribe.

6. The value of tribal natural resources has be ostimated at nearly one hundred billion dollars and yet the material poverty of Indians is the worst in the nation. Most economic development plans benefit non-Indians more than Indians. Economic plans which will benefit Indians and which are consistent with tribal desires should be developed and implemented.

Chapter 14 - "Dissent by Congressman, Lloyd Meeds" - Earl Barlow

Comment:

"Congressman Meeds states that since he had "serious and substantial disagreement with the Commission's findings and recommendations" he retained through the Commission, Frederick J. Martone of the Arizona bar to work with him in evaluating the Commission's report. He charges the Commission was non-objective and the Majority Report is the product of one sided advocacy in favor of American Indian Tribes. He states, "Congress will either have to authorize another commission to ascertain the views of non-Indians, the states, and the United States or perform that function on its own."

He admits that because of the Commission's schedule that he had "neither the time nor the resources to adequately evaluate, critique, and recreate the report."

However, he challenges "unwarranted findings and conclusions" in the report. These include tribal sovereignty, jurisdiction, trust responsibility, social welfare programs, sovereign immunity, assertion of state claims, regulatory power of tribes over off-reservation members, and definitional problems associated with the words "Indian" and "Tribe."

Legislative Recommendations: (By Meeds)

1. Congress enact legislation directly prohibiting Indian courts from exercising criminal jurisdiction over any person, whether Indian or non-Indian, who is not a member of the Indian tribe which operates the court in question.

2. Congress enact legislation prohibiting Indian courts from exercising civil jurisdiction over any person, whether Indian or non-Indian, who is not a member of the tribe which operates the court in question, unless the non-Indian defendent expressly and voluntarily submits to the jurisdiction of the tribal court after the claim arises upon which the suit is brought.

3. Congress enact legislation providing that states shall have the same power to levy taxes, the legal incidence of which falls upon non-Indian activities or property, on Indian reservations as they have off Indian reservations.

4. Congress expressly prescribe taxation of non-members or property of non-members by Indian tribes.

Public Law 93-580 clearly, concisely, and explicitly sets forth the congressional findings of the Federal Government's historical and special legal relationship with American Indian people and declares that two comprehensive review of Indian affairs be conducted. The law specifically mandates that five of the eleven Commissioners be Indians and each investigating task force shall have a majority of whom shall be of Indian descent.

The A.I.P.R.C. was created and organized as specified by P.L. 93-580 and the majority Report fully reflects the intent of the law.

Generally, at the outset, Federally recognized Indians residing on reservations were critical of the Commission because in their judgement too much representation was given to urban and non-federally recognized Indians.

Congressman Meed's findings and conclusion are inadequately documented and exhibit a strong anti-Indian bias. His dissent is not objective".

Recommendations:

1. Congressman Meed's Minority Report and especially his legislative recommendation should be totally rejected.

2. The use of A.I.P.R.C. resources to retain Frederick J. Martone should be investigated by Congress and determine if this action was in keeping with the law.

3. His contention that "American Indian Tribes lost their soveignty through discovery, conquest, cession, treaties, statutes and history" is indefensible and flies in the face of the ideals to which this nation subscribes. His contention should be vigorously challenged and buried forever.

4. He cites as fact "that American Indian tribes were conquered and subordinated to the will of the people of the United States". The supposition of "might makes right" and " two wrongs make a right" is inimical to concepts held sacred by American citizens and must be rejected.

Conclusion.

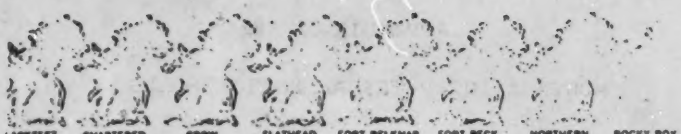
At the completion of all chapter presentations and recommendations, the participants were asked to inform their Tribal Councils of the workshop proceedings. The participants were then informed that the workshop data would be compiled and mailed as soon as possible. The workshop meeting adjourned at 1:30 p.m. Friday, April 15, 1977.

APPENDIX A

MONTANA INTER-TRIBAL POLICY BOARD

MEMORANDUM: A. I. P. R. C.

APRIL 6, 1977



Montana Inter-Tribal Policy Board

c/o Bureau of Indian Affairs
316 North 26th Street
Billings, MT 59101

Thomas E. Pablo
Chairman

onard Boxer
1st Vice Chairman

an Raining Bird
2nd Vice Chairman

il Beaumont, Sr.
Secretary-Treasurer

April 6, 1977

M E M O R A N D U M

TO: All Tribal Chairmen
All MITPD Delegates
All Interested Individuals or Organizations

FROM: Thomas E. Pablo, Chairman
Montana Inter-Tribal Policy Board

SUBJECT: Emergency Board Meeting April 14-15, 1977

As Chairman of the Montana Inter-Tribal Policy Board, I am calling an EMERGENCY MEETING April 14-15, 1977, which will be held at the Presidents Conference Room, Montana Hall, on the Campus of Montana State University, Bozeman, Montana, starting promptly at 9:00 A.M. each day.

If you need further directions, please call Mr. Robert Peregoy, Director, Native American Studies at 994-3881.

The purpose of this meeting is to review and make recommendations on the tentative report from the American Policy Review Commission.

Because of Mr. Earl Barlow's involvement with the Commission, he will be the Coordinator of this meeting. Two members from the Commission will also attend to provide the Tribes with assistance.

There are 13 Chapters and a Dissent by Congressmen Lloyd Meeds in the tentative final report of the American Indian Policy Review Commission. The Tribes have until April 23, 1977, to make their comments known to the Commission.

To facilitate a review of the report on April 14-15, each Tribe is requested to be prepared to make a presentation on 2 chapters of the report. Each Tribe should be prepared to make recommendations on their assigned chapters.

BLACKFEET

Chapter 1 History of United States - Indian Relations
Chapter 2 Legal Conceipts in Indian Law

CROW

Chapter 3 Contemporary Conditions of Indians
Chapter 4 Federal - Indians Trust Relations

FLATHEAD

Chapter 5 Tribal Government
Chapter 6 Federal Administration

FORT BELKNAP

Chapter 7 Economic Development
Chapter 8 Social Services

FORT PECK

Chapter 9 Off-Reservation
Chapter 10 Terminated Tribes

NORTHERN CHEYENNE

Chapter 11 Unrecognized Indians
Chapter 12 Special Circustances - Alaska-Oklahoma-California

ROCKY BOY

Chapter 13 Miscellaneous
Dissent by Congressmen Lloyd Meeds

LANDLESS

If the Landless have received copies of this report, we are asking you to consider any of the chapters that are pertinant to you and that you be able to make a presentation.

Summaries of the completed workshops and recommendations made by the Idaho Inter-Tribal Policy Board, along with evaluation forms to be used at this meeting will be submitted in the next couple of days.

We would like to extend an invitation to all interest and involved individuals or organizations to attend this meeting.

Agenda attached.

p/s The National Association of Counties-Indian Task Force will be meeting in Helena, Montana, April 26-27, 1977, at the Colonial Inn in the Executive Room.

April 26th they will be making a presentation on the tentative final report of the American Indian Policy Review Commission.

April 27th they will probably draft recommendations adverse to the Commission's findings.

Looks like a MOD effort. If you can, please plan on attending.

MONTANA INTER-TRIBAL POLICY BOARD

A G E N D A
April 14-15, 1977

Presidents Conference Room
Montana Hall
Montana State University
Bozeman, Montana

APRIL 14, 1977	ORDER OF BUSINESS
9:00 A.M.	Call to order by Thomas E. Pablo, Chairman - MITPB
	Ceremony Prayer
	Roll Call
	Introduction of Tribal Chairmen and any delegation present
9:30 A.M.	Overall Review of the American Indian Policy Review Commission by Mr. Earl Barlow.
10:00 A.M.	Presentation of reviews and recommendation by the individual tribes.
12:00 P.M.	LUNCH
1:30 P.M.	Continuation of recommendations.
5:00 P.M.	Recess

APRIL 15, 1977	
9:00 A.M.	Call to order by Thomas E. Pablo, Chairman - MITPB
	Ceremony Prayer
	Roll Call
	Introduction of Tribal Chairmen and any delegation present
9:30 A.M.	Compiling and writing of recommendations.
12:00 P.M.	LUNCH
1:30 P.M.	Closed Executive Board meeting.
2:30 P.M.	Adjournment

APPENDIX B

A. I. P. R. C. WORKSHOP PARTICIPANTS

WORKSHOP PARTICIPANTS

1.	Ray Dupuis	B.I.A.	Ronan, MT
2.	Tom Pablo	Confederated Salish & Kootenai Council Member	Dixon, MT
3.	Sonny Morigeau	Confederated Salish & Kootenai Council Member	Dixon, MT
4.	Ivan Raining Bird	Rocky Boys Council Member	Box Elder, MT
5.	Vicky Desonia	Coord. of Indian Affairs Office	Helena, MT
6.	Joe W. Show	Blackfeet Tribal Council Member	Browning, MT
7.	Roland Kennerly	Blackfeet	Billings, MT
8.	Earl Barlow	A.I.P.R.C. Task Force #5	Browning, MT
9.	Barney Old Coyote	N.T.C.A.	Washington, DC
10.	Urban Bear Don't Walk	M.I.T.P.B.	Billings, MT
11.	Ron Sullivan	Montana Indian Legislative Office	Helena, MT
12.	Tom Whitford	B.I.A.	Billings, MT
13.	Rena Blakeslee	M.I.T.P.B.	Billings, MT
14.	Karen Fenton	Confederated Salish & Kootenai Tribes	Dixon, MT
15.	Dwight Billedeaux	Browning Public Schools	Browning, MT
16.	Henry Old Coyote	U.S. Senate Select Staff	Washington, DC
17.	Aurice Show	Blackfeet	Browning, MT
18.	Dennis Bear Don't Walk	Crow	Billings, MT
19.	Tom Thompson	Chairman, N.A.C.I.E.	Browning, MT
20.	C. Patrices Morris	NAS, M.S.U.	Bozeman, MT
21.	Robert Van Geuton	NAS, M.S.U.	Bozeman, MT
22.	Carmon Taylor	Student, M.S.U.	Bozeman, MT
23.	Mauford King	Student, M.S.U.	Bozeman, MT
24.	Walter Hsaing	Student, M.S.U.	Bozeman, MT
25.	Edna Hieth	Student, M.S.U.	Bozeman, MT

APPENDIX C

AMERICAN INDIAN POLICY REVIEW COMMISSION

P. L. 93-580

American Indian Policy Review Commission

Throughout the history of Federal-Indian relations there has never been a comprehensive approach by the Congress and the Executive that dealt effectively with Indian problems and, at the same time, efficiently fulfilled Indian needs.

As a result, Indian policy has been shaped by a fragmented, piecemeal approach which served to inhibit, rather than promote Indian development and has directly led to the deep despair and frustration vented in the occupation of the Bureau of Indian Affairs and the siege of Wounded Knee.

Forty seven years have gone by since the last comprehensive study of Indian Affairs was conducted. It has come down to us as the Merian Report which was conducted by the Institute for Government Research in 1928. The Merian Report helped foster a climate of Congressional awareness of tribal concerns which in turn led to widespread reforms of the 1930's, including the 1934 Indian Reorganization Act. In the intervening years the original intent of these reform policies has been compromised and distorted through administrative ignorance and neglect. Now, finally, the urgency of the problems and the confusion as to Indian goals and methods of attaining them have led to the creation of the American Indian Policy Review Commission. Consisting of three Senators, three representatives, five Indian members, and supported by a distinguished task force of 27 specialists, it will have the power, qualifications, and Indian participation to explore all of the major problem areas. The Commission will be able to submit recommendations from which the Congress may legislate meaningful approaches to fulfill the present and future needs of Indian people and chart the course of American Indian history for the next century.

RECEIVED
APR 7 1977
ARCHIVES

Public Law 93-580

CONGRESSIONAL FINDINGS

The Congress, after careful review of the Federal Government's historical and special legal relationship with American Indian people, finds that–

(a) the policy implementing this relationship has shifted and changed with changing administrations and passing years, without apparent rational design and without a consistent goal to achieve Indian self-sufficiency;

(b) there has been no general comprehensive review of conduct of Indian affairs by the United States nor a coherent investigation of the many problems and issues involved in the conduct of Indian affairs since the 1928 Meriam Report conducted by the Institute for Government Research; and

(c) in carrying out its responsibilities under its plenary power over Indian affairs, it is imperative that the Congress now cause such a comprehensive review of Indian affairs to be conducted.

DECLARATION OF PURPOSE

Congress declares that it is timely and essential to conduct a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government in order to determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indians.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That–

(a) In order to carry out the purposes described in the preamble hereof and as further set out herein, there is hereby created the American Indian Policy Review Commission, hereinafter referred to as the "Commission".

(b) The Commission shall be composed of eleven members, as follows:

(1) three Members of the Senate appointed by the President pro tempore of the Senate, two from the majority party and one from the minority party;

(2) three Members of the House of Representatives appointed by the Speaker of the House of Representatives, two from the majority party and one from the minority party; and

(3) five Indian members as provided in subsection (c) of this section.

(c) At its organization meeting, the members of the Commission appointed pursuant to section (b)(1) and (b)(2) of this section shall elect from among their members a Chairman and a Vice Chairman. Immediately thereafter, such members shall select, by majority vote, five Indian members of the Commission from the Indian community, as follows:

(1) three members shall be selected from Indian tribes that are recognized by the Federal Government;

(2) one member shall be selected to represent urban Indians; and

(3) one member shall be selected who is a member of an Indian group not recognized by the Federal Government. None of the Indian members shall be employees of the Federal Government concurrently with their term of service on the Commission nor shall there be more than one member from any one Indian tribe.

(d) Vacancies in the membership of the Commission shall not affect the power of the remaining members to execute the functions of the Commission and shall be filled in the same manner as in the case of the original appointment.

(e) Six members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings: *Provided*, That at least one congressional member must be present at any Commission hearing.

(f) Members of the Congress who are members of the Commission shall serve without any compensation other than that received for their services as Members of Congress, but they may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of duties vested in the Commission.

(g) The Indian members of the Commission shall receive compensation for each day such members are engaged in the actual performance of duties vested in the Commission at a daily rate not to exceed the daily equivalent of the maximum annual compensation that may be paid to employees of the United States Senate generally. Each such member may be reimbursed for travel expenses, including per diem in lieu of subsistence.

Sec. 2. It shall be the duty of the Commission to make a comprehensive investigation and study of Indian affairs and the scope of such duty shall include, but shall not be limited to—

(1) a study and analysis of the Constitution, treaties, statutes, judicial interpretations, and Executive orders to determine the attributes of the unique relationship between the Federal Government and Indian tribes and the land and other resources they possess;

(2) a review of the policies, practices, and structure of the Federal agencies charged with protecting Indian resources and providing services to Indians: *Provided*, That such review shall include a management study of the Bureau of Indian Affairs utilizing experts from the public and private sector;

(3) an examination of the statutes and procedures for granting Federal recognition and extending services to Indian communities and individuals;

(4) the collection and compilation of data necessary to understand the extent of Indian needs which presently exist or will exist in the near future;

(5) an evaluation of the feasibility of alternative elective bodies which could fully represent Indians at the national level of Government to provide Indians with maximum participation in policy formation and program development;

(6) a consideration of alternative methods to strengthen tribal government so that the tribes might fully represent their members and, at the same time, guarantee the fundamental rights of individual Indians; and

(7) the recommendation of such modification of existing laws, procedures, regulations, policies, and practices as will, in the judgment of the Commission, best serve to carry out the policy and declaration of purposes as set out above.

POWERS OF THE COMMISSION

Sec. 3. (a) The Commission or, on authorization of the Commission, any committee of two or more members is authorized, for the purposes of carrying out the provisions of this resolution, to sit and act at such places and times during the sessions, recesses, and adjourned periods of Congress, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The Commission may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Commission unless a majority of the Commission assent. Upon the authorization of the Commission subpenas may be issued over the signature of the Chairman of the Commission or of any member designated by him or the Commission, and may be served by such person or persons as may be designated by such Chairman or member. The Chairman of the Commission or any member thereof may administer oaths or affirmations to witnesses.

(b) The provisions of sections 192 through 194, inclusive, of title 2, United States Code, shall apply in the case of any failure of any witness to comply with any subpena when summoned under this section.

(c) The Commission is authorized to secure from any department, agency, or instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this resolution and each such department, agency, or instrumentality is authorized and directed to furnish such information to the Commission and to conduct such studies and surveys as may be requested by the Chairman or the Vice Chairman when acting as Chairman.

(d) If the Commission requires of any witness or of any Government agency the production of any materials which have theretofore been submitted to a Government agency on a confidential basis, and the confidentiality of those materials is protected by statute, the material so produced shall be held in confidence by the Commission.

INVESTIGATING TASK FORCES

Sec. 4. (a) As soon as practicable after the organization of the Commission, the Commission shall, for the purpose of gathering (by) and other information necessary to carry out its responsibilities pursuant to section 2 of this resolution, appoint investigative task forces to be composed of three persons, a majority of whom shall be of Indian descent. Such efforts, including, but not limited to-

(1) trust responsibility and Federal-Indian relationship, including treaty review;
(2) tribal government;
(3) Federal administration and structure of Indian affairs;
(4) Federal, State, and tribal jurisdiction;
(5) Indian education;
(6) Indian health;
(7) reservation development;
(8) urban, rural nonreservation, terminated, and nonfederally recognized Indians; and
(9) Indian law revision, consolidation, and codification.

(b) (i) Such task forces shall have such powers and authorities, in carrying out their responsibilities, as shall be conferred upon them by the Commission, except that they shall have no power to issue subpenas or to administer oaths or affirmations: *Provided*, That they may call upon the Commission or any committee thereof, in the Commission's discretion, to assist them in securing any testimony, materials, documents, or other information necessary for their investigation and study.

(ii) The Commission shall require each task force to provide written quarterly reports to the Commission on the progress of the task force and, in the discretion of the Commission, an oral presentation of such report. In order to insure the correlation of data in the final report and recommendations of the Commission, the Director of the Commission shall coordinate the independent efforts of the task force groups.

(c) The Commission may fix the compensation of the members of such task forces at a rate not to exceed the daily equivalent of the highest rate of annual compensation that may be paid to employees of the United States Senate generally. WAE.

(d) The Commission shall, pursuant to section 6, insure that the task forces are provided with adequate staff support in addition to that authorized under section 6 (a), to carry out the projects assigned to them.

(e) Each task force appointed by the Commission shall, within one year from the date of the appointment of its members, submit to the Commission its final report of investigation and study together with recommendations thereon.

REPORT OF THE COMMISSION

Sec. 5. (a) Upon the report of the task forces made pursuant to section 4 hereof, the Commission shall review and compile such reports, together with its independent findings, into a final report. Within six months after the reports of the investigating task forces, the Commission shall submit its final report, together with recommendations thereon, to the President of the Senate and the Speaker of the House of Representatives. The Commission shall cease to exist six months after submission of said final report but not later than June 30, 1977. All records and papers of the Commission shall thereupon be delivered to the Administrator of the General Services Administration for deposit in the Archives of the United States.

(b) Any recommendation of the Commission involving the enactment of legislation shall be referred by the President of the Senate or the Speaker of the House of Representatives to the appropriate standing committee of the Senate and House of Representatives, respectively, and such committees shall make a report thereon to the respective house within two years of such referral.

COMMISSION STAFF

Sec. 6. (a) The Commission may by record vote of a majority of the Commission members, appoint a Director of the Commission, a General Counsel, one professional staff member, and three clerical assistants. The Commission shall prescribe the duties and responsibilities of such staff members and fix their compensation at per annum gross rates not in excess of the per annum rates of compensation prescribed for employees of standing committees of the Senate.

(b) In carrying out any of its functions under this resolution, the Commission is authorized to utilize the services, information, facilities, and personnel of the Executive departments and agencies of the Government, and to procure the temporary or intermittent services of experts or consultants or organizations thereof by contract at rates of compensation not in excess of the daily equivalent of the highest per annum rate of compensation that may be paid to employees of the Senate generally.

Sec. 7. There is hereby authorized to be appropriated a sum not to exceed $2,500,000 to carry out the provisions of this resolution.

Task Forces: 1 year submit to Commission final report + recommendations
Commission: 6 months submit its final report + recommendations to Pres. of Senate/Spkr. of House
Congress: President + Spkr refer to appropriate standing committees.
Committees report to respective house within 2 years.

APPENDIX D

LETTERS

93-440 O - 78 - 19

[boilerplate committee rosters]

AMERICAN INDIAN POLICY REVIEW COMMISSION
CONGRESS OF THE UNITED STATES
[illegible]
WASHINGTON, D.C. [illegible]
PHONE: [illegible]

DATE: April 20, 1977

TO: Montana Indian Tribal Councils

FROM: Earl J. Barlow

RE: American Indian Policy Review Commission's Tentative Final Report

I have enclosed a copy of the report of persons who participated in a workshop sponsored by the Montana Inter-Tribal Policy Board. The purpose of the workshop was to give tribal representatives an opportunity to review the Tentative Final Report of the American Indian Policy Review Commission and formulate comments and recommendations for the Final Report.

Since the report had to be sent to the Commission postmarked no later than April 23, 1977, it was impossible to wait for feedback from tribal representatives and individuals. Therefore, if you desire to make comments, I suggest you communicate directly with the Commission prior to April 23, 1977.

American Indian Policy Review Commission
House Office Building Annex No. 2
2nd and D Streets, S.W.
Washington, D. C. 20515

Telephone: (202) 225-1284

Browning Public Schools

SCHOOL DISTRICT NO. 9

Browning, Montana 59417

April 21, 1977

American Indian Policy Review Commission
House Office Building Annex #2
2nd and D. Streets, S.W.
Washington, D. C. 20515

Dear Sirs:

Please find enclosed a copy of an A.I.P.R.C. Workshop report. The report is the product of a two day workshop as hosted by the Montana Inter-Tribal Policy Board. Contained within are A.I.P.R.C. "Tentative Final Report" chapter presentations and recommendations as generated by workshop participants.

The workshop participants hereby respectfully submit their recommendations and input for this historic study.

Sincerely yours,

Tom Thompson
A.I.P.R.C. Workshop Recorder

TT/er

cc. T. Pablo
E. Barlow
R. Blakeslee

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
Nome Agency
P.O. Box 1108
Nome, Alaska 99762

April 8, 1977

Honorable James S. Abourezk, Chairman
American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2nd and D Streets, SW.
Washington, D.C. 20515

Dear Senator Abourezk:

I have just completed my review of the American Indian Policy Review Commission's tentative Final Report and would like to make the following comments as pertains to Chapter 12, Special Circumstances - Alaska:

1. Under Findings Number 5 and 6 and Recommendations Number 2, I find that the situation in Northwestern Alaska is exactly opposite to the Tlingit-Haida attitude that the Regional entity is the tribe. My recommendation is that any reference to recognizing the Tlingit and Haida Indians as a single tribal entity should be omitted or the villages within the Bering Straits and NANA Regions should be added as recognized tribal governing bodies. Congress should not enact legislation prescribing the order of preference in which applications for benefits under federal laws will be received. This should be the first decision made by the Indian groups in fulfilling their desire to attain a full measure of self-determination.

2. I have read the entire report and someone did a great deal of work. I fully agree with all other Alaskan recommendations, particularly those that expedite conveyance of lands to Indian entities and reservation of essential easements.

Sincerely yours,

Gary T. Longley, Sr.

Gary T. Longley, Sr.
Superintendent

cc:
John Borbridge, Jr., Sealaska

STATE OF CALIFORNIA — EDMUND G. BROWN JR., Governor
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
921 Tenth Street, Sacramento, CA 95814
(916) 445-4775

April 18, 1977

The Honorable Sidney Yates
Chairman, Interior Subcommittee
House Appropriations Committee
United States House of Representatives
Washington, D. C.

Dear Congressman Yates:

This Department, through its Indian Assistance Program, currently provides technical assistance and a range of services to Indians living on or near trust lands. These activities of the Department are designed to assist tribes to meet their housing and community development needs and to use to the greatest possible benefit the state and federal funds available for that purpose. Over the last two years, the Indian community has expressed to us their concern about the funding provided by the BIA to its Sacramento Area Office and we have accordingly been carrying out research into the nature and level of this funding. We have found that there is in fact serious underfunding which in our view requires remedial action by Congress and the BIA.

An examination of the Bureau of Indian Affairs (BIA) Budget data since 1969 reveals that California Indians have not been receiving a fair share of BIA allocations based either on the service population or on the needs and that action is required to rectify the present inequitable funding levels. Table I shows that BIA allocations to the Sacramento Area Office of the BIA (encompassing the State of California) since Fiscal Year 1969 have ranged between 0.8% and 1.9% of the national total despite the fact that the BIA recognizes a population of 36,255 Indians on or near reservations in California, which is 6.7% of the total estimated BIA service population.

House Concurrent Resolution No. 108 of 1953 which declared federal intent to terminate responsibility for Indian services in California initially served as justification for the low funding levels accorded the Sacramento Area. However, the federal government has long since repudiated the policy of termination and withdrawal of services. Congress formally enacted such a policy of self-determination and continuing assistance with the passage of the Indian Self-Determination Act of 1975 which states, in part:

> "Congress declares its commitment to the maintenance of the federal government's unique and continuing relationship with, and responsibility to, the Indian and to the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from federal domination of programs providing services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of these programs and services."

Despite repudiation of the termination policy and although there have been some increases in BIA allocations to the Sacramento area over the last decade, California Indians living on or near reservations will receive only $346.16 per capita in fiscal year 1978, compared to a national average (including California) of $1,199.32.

According to Mr. Conger, Chief Statistician in the BIA's Washington office, funding for areas is based on a number of criteria which vary from program to program. There is apparently no existing formula for allocation on the basis of population although he informed us that service area population is a major consideration in determining allocations. Obviously, certain funds, such as those for forest protection and utilization, go only to Areas where forests exist. But in comparing Area allocations to Area service populations (see Table II) it is difficult to conclude that the BIA has adopted fair and rational formulae. It is possible that consistent criteria are applied in determining funding. If indeed they exist, they certainly merit review. If none are used, as seems to be the case, then the BIA should be required by Congress to develop a system of allocation which provides to California Indians the funds they need and deserve.

The BIA, in defending its present system of allocation, may point to three factors crucial to its justification of funding levels.

First, it may argue that the Sacramento Area's on-reservation population (6,240 as of 1973*) is not sufficient to warrant substantial changes in future allocations. But according to William Finale, the Director of the Sacramento Area Office, very few of the BIA's California programs serve exclusively the 6,240 reservation Indians. Table III lists those programs and amounts expended on such programs which serve the 36,255 Indians both on and off reservations and rancherias. The figure of 36,255 includes all rural Indians living within counties containing trust land.

Table III-A shows the total amount expended on such programs as a percentage of the total Sacramento Area allocation in Fiscal Year 1977 and 1978. As you will note, approximately 60% of the total allocation is being expended to serve the service population of on and near trust land Indians.

Table IV shows that even for those programs that serve on and near reservation Indians, California Indians are severely underfunded. With 6.7% of the total estimated BIA service population, the Sacramento Area will receive in Fiscal Year 1977 only 3.1% of Aid to Tribal Government funds and 0.1% of Social Services funds. California received only 0.002% of funds allocated for school operations because the BIA operates no schools here. As a result, the State must assume a commensurately greater part of the cost of Indian education.

---

*Source: "Estimates of Resident Indian Population and Labor Force Status", BIA, 1973.

While the BIA may contend, when making its allocations, that the on reservation figure is appropriate, as funding criterion, we note that the Department of the Interior in submitting to the Congress its Fiscal Year 1977 budget justification relied on the figure of 36,255 (6.7% of the national total) to support its budget request. In that justification, the Department referred to the 1973 estimated BIA service population of 543,000 Indians on and near reservations "including all rural California Indians in counties including trust lands."

Secondly, the BIA maintains that it computes current budgets by using past budgets as data bases. Rather than significantly re-evaluating allocations each year, the BIA relies on past allocations to determine current ones. Area offices which are underfunded in one Fiscal Year are likely to be underfunded in subsequent years. The result has been that while Sacramento Area's share of the total budget has increased somewhat from 1969, it has not increased sufficiently to reach an equitable level.

We have been informed by the BIA that its Fiscal Year 1977 budget provided for the first time an experimental "equity adjustment" for underfunded Agencies. All Agencies received a standard 1.6% allocation increase, but those Agencies selected to participate in the "equity adjustment" received an additional 6.4%, making a total 8.0% increase. The Southern California Agency in the Sacramento Area was selected to participate in this program, but the Hoopa and Central California Agencies were omitted. Even for the Southern California Agency, 6.4% was hardly enough to alter radically the present unbalance. Nevertheless we were informed by Mr. Conger that the "equity adjustments" were "ill-received" and may not be continued.

It appears to us that the BIA already has the power to readjust its budget increases to provide more equitable funding for California. According to Mr. Finale, the Office of Management and Budget sets a target percentage increase for the Department of Interior, which in turn adjusts the figure upward or downward for the entities within its jurisdiction. Once its target has been set by the Department, the BIA can, within statutory constraints, allow different rates of increase to its Areas and their constituent Agencies to offset inequities between them.

Thirdly, the BIA may contend, in justification of present funding levels, that the relatively small land base of California Indians and the wide distribution of Indians in the "near-reservation" category entitles the Sacramento Area to less program activity than is provided to Areas with more trust land and sizable numbers of Indians living in close proximity to such lands.

To an extent this contention is a valid one. We have already referred to allocations for forest protection and utilization in this regard. However, the argument does not hold for the range of educational, community development, and related funds provided by the BIA since the need for those funds is not related to the possession of trust land but rather to the population to be served. Indeed, because the treaties to which the California Indians and Federal commissioners agreed in the mid-nineteenth century were never

ratified, trust lands in California are extremely small, and in most cases insufficient, both in area and quality, to support large on-reservation populations. It is grossly unfair to base funding on the size of trust lands since non-ratification prevented establishment of large and more viable reservations.

The BIA in determining funding levels should take properly into account the reality of history which created the unique dispersion of California Indians throughout non-trust lands. We note in this regard that, according to Mr. Finale, the BIA continues to fund Oklahoma Indians living on now extinct reservations in that State as if the abolished reservations were still trust land.

In conclusion, we strongly believe that California Indian communities are not now receiving their proper share of the funds allocated by the Bureau of Indian Affairs. California is underfunded not only in terms of total allocations but also in terms of those programs for which a service population of 36,255 is clearly established. At the very minimum, California Indians should receive funding for such programs on a basis commensurate with their recognized service population. The needs of California Indians are great and those needs for services demand attention.

We urge the Subcommittee to seriously examine current BIA funding practices as they relate to California Indians. We hope that you will see fit to take some action with respect to this year's budget to assure adequate funding for California Indians and that you will move to see that BIA allocation policies are more equitable in the future.

Thank you for your attention to this matter. If you have any questions or need assistance with regard to resolution of this problem, please get in touch.

Sincerely,

Arnold C. Sternberg
Director

Attachments

cc: Members of the Subcommittee

RECD MAR 22 '77

March 18, 1977

It seems to me that Americans have a tendency to want to solve world problems but pay little attention to problems existing in their own back yards!

We have a Federal Law on the books which has integrated our school system -- but why oh why -- is the segregation system permitted to start in the Hayward Area? I cannot understand why the citizens and the legislatures are permitting the Chippewa Indians to set up a segregated school system with our tax dollars?

It appears to me that we are going backwards and permitting prejudices to exist instead of going forwards by integrating and lessening prejudices! It seems immoral to perpetuate such separatism with our tax dollars. We must not make the same mistakes as our forefathers who really believed the creation of reservations solved problems/ This only created a feeling of separativeness!! How long must future generations beat their chests in "MIA CULPA" fashion and live with the guilt feelings?? Let us all integrate - work for a living and support our government alike through the tax dollar earned not begged!!!

Sincerely

Rose Cammack

Rt 4 - Hayward, Wisconsin

UNITED STATES DEPARTMENT OF COMMERCE
Economic Development Administration
Washington, D.C. 20230

April 22, 1977

Mr. Ernest L. Stevens
Director
American Indian Policy Review Commission
House Office Building Annex No. 2
2nd and D Streets, S.W., Room 3158
Washington, D. C. 20515

Dear Ernie:

We appreciate having the opportunity to provide comments on the tentative final report of the Commission. In this regard, we enclose statements containing our comments on two chapters — Numbers 6 and 7 — which, we feel, are of special interest to us.

We look forward to having the [illegible] report when it is published.

Sincerely,

Ray

RAY T. TANNER
Special Assistant
for Indian Affairs

Enclosures

AIPRC PROPOSED FINAL REPORT

Chapter 6 - Federal Administration

The AIPRC has been charged with an important mission in Chapter 6 to assist Indian people in participating in the services and programs of the Federal Government to the fullest extent possible. The EDA Indian Desk shares this concern and offers the following summary comments to help make a good report better:

Clearly, this chapter on Federal Administration reflects the dedicated efforts of many hands. Perhaps some consideration should be given to editing for brevity, style, tone, and balance to bring out the most important findings and recommendations, particularly when much of the material is also discussed in other AIPRC reports.

Some thought should be given to reassessing the organization of this Chapter consisting of seven parts covering 137 pages. Seventy-nine percent of Chapter 6 discusses essentially four Federal agencies (BIA/DOI; IHS/DHEW, and ONAP/DHEW) included in Part V on Federal Delivery Systems and 72 percent of this part discusses only BIA. There are many other Federal agencies offering vital programs to Indians in categorical and block grants, procurement and contracting, and so forth that may well be included consistent with the intent of this chapter.

While the findings of this chapter disclose some revealing issues regarding Federal policy, program management, organization, budgeting, and standards, we note that there appears to be no consistently applied methodology in looking at each Federal agency and program. This is important as Federal administrative requirements often vary with the type of program.

Part V, item 6, discusses Federal technical assistance to Indians. While we agree that this is an important program area, in which EDA also participates, we question why technical assistance is singled out as a specific program area for review, particularly when a small percentage of the Federal dollar is expended in this area. We feel this area should be part of the discussion on BIA in Chapter 6 since BIA is the principal providor of technical assistance.

Part V, item 7, discusses access to Federal program information and the difficulty tribes have experienced to obtain this information. We agree that access to information on Federal domestic assistance programs is important for all Indian tribes, but note that much of this problem is alleviated as EDA-funded tribal planners gather Federal program information and perform Federal, State, and local government coordination activities as required as part of their responsibilities for the tribes they serve.

Part VI, B, Indian Contracting Preference, discusses the use of Federal contracting and procurement and to enhance Ind'an economic development and promote Indian enterprises. We do not agree that limited success in the field of Indian management and economic development is due to the failure of Federal agencies to implement PL 93-638, at least as it applies to EDA. We agree that Indian preference in contracting merits consideration, but wish to note that successful tribal enterprises, providing employment and income to the tribe, are found only where sound management and business practices are also employed and freely supported by the tribe. Accordingly, contracting may be an alternative to enhance Indian economic developement and promote Indian enterprises but has no foundation as a reason for the limited progress among American Indians as Part VI, B, implies.

AIPRC PROPOSED FINAL REPORT

Chapter 7 - Economic Development

General:

Since the greater part of the chapter is devoted to protection and development of natural resources, it would seem more appropriate that the title of the chapter reflect that emphasis. There are a few, short glimpses of economic development in senses of that term, but a great deal more analysis should be presented to carry a chapter on that subject. It might have been appropriate to devote an additional chapter to that subject.

The general organization of the chapter, we found, was haphazard, with the presentation taking twists and turns that cause the reader to loose the impact of what is being said. Part I, for example, is purported to be a Summary of Major Findings. It is neither a summary nor does it present only major findings. It contains 67 separate, unorganized statements, all of which are scattered throughout the text.

Much of the discussion and many of the findings are not backed up by concrete facts and analysis. For example, the recommendations on manpower development start with nine "Congress should enact legislation." These recommendations do not identify present laws that could be amended; do not set priorities; do not suggest funding levels; and do not provide a time table for implementation.

While the study presents what are perceived to be needed and desired changes in the tools available for economic development of Indian areas, it fails to a large extent to even recognize that there are built-in barriers to such development. We feel it must be recognized and accounted for that tribal policies of 100 percent Indian ownership will restrict available capital resources and management expertise. This is not to say that Indian ownership is bad. It is not. But the study should recognize this point. Further, the lack of continuity in tribal development policies brought about by frequent changes in tribal administration is another barrier that must be recognized.

Planning and Development Strategies:

Certainly a study examining the need for, and recommending ways to accomplish, economic development, must list planning very close to the top. The chapter makes only passing reference to this need. Similarly omitted is the need for long-range development strategies for local Indian communities to make them better places in which to live.

Commercial Development

One of the very pressing needs, generally, in Indian country is that for commercial development, yet the study makes only a passing reference to the lack of goods and services on reservations with no recommendation on improving this situation. In this same category, but converse in nature, is the marketing of Indian products and resources off reservation. The study should recognize that many tribes do not have the knowledge and skills to exploit markets for maximum economic and social impact and that programs should be designed to meet these needs.

Indian Control

Indians should seek self reliance and self government. At the same time, however, they must accept and assume broad ranging responsibilities. We agree that a Federal mandate should be designed to relieve Indians from Federal dependency, but the study fails to recommend in concrete terms the parameters of such a mandate. Indians should formulate and control their own economic development; they should exercise full control over their own resources. However, the study again, either by design or omission, fails to consider in any depth the full ramifications of these points. No mention is made of Indians using their own funds in economic development; no mention is made of the possible efficacy of Indians becoming tax payers — taxes, for example, that tribal members pay into tribal coffers. In another vein, the study points out that Federal economic development programs foster private enterprises that are foreign to traditional Indian ways. Perhaps some Federal programs do just this; however, since some tribes prefer this type of development, the Indians, themselves, should make the determinations and the programs should be designed to react to such determinations.

Water

The section on water resources is disappointingly scanty. It deals principally with the Winters Doctrine, which established water rights granted by both treaties and executive orders. With both water and land being the most crucial issues in Indian country today, a great deal more coverage should be provided in both these areas as to the impact they have on the full range of economic development.

Land

The study quite properly points out the very serious problem of fractionated land ownership. This is a major drawback to future development of Indian lands and it would seem that a more thorough analysis of the problem and suggested solutions would have been presented. Additionally, the study gives the impression to the uninitiated reader that now that the land in Indian

ownership has been reduced from 166 million acres to 52 million acres, the present land is submarginal. This statement should be balanced by a showing of economic development potential of these lands.

Energy Resources

This subject is especially important today in light of increasing energy needs. It has, however, been given broad-brush treatment in the study, where specifics should be examined. Of course, Indian interests must be protected but at the same time, economic needs of tribes must be met. Consequently, the study should examine closely and recommend broadly Federal policy in the development of tribal energy resources.

Timber Resources

That timber resources appear not to have been managed in the most desirable fashion is clearly spelled out in the study. What is not spelled out so clearly, however, is how to better manage and at the same time preserve the trust of caring for another's property without being continually liable for failure to act in the best interest of the property owners. The study falls short in making concrete recommendations in this respect.

Information Bank

A clear need in economic development appears to us to be that of data on population, labor force, employment, unemployment, and income. At present there are no truly satisfactory sources for this information and the study does not recognize this need.

Summary

While there are shortcomings in the study as noted above, overall it appears that the study does make many good points. If there can be any one general criticism, it would be that the study lacks balance. Broad statements are made without adequate supporting evidence. Some Federal programs are bad — ergo, all are indicted. Some tribes and individual Indians perceive their needs to be along given lines, hence, all tribes and all Indians have the same needs. These needs are not the same for all and they cannot be generalized. This factor, alone, calls for the analysis of, and provision for, a multiplicity of routes to follow in attaining the full potential for the economic development of Indian lands and people.

STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE OFFICE BUILDING HARTFORD, CONNECTICUT 06115
INDIAN AFFAIRS COUNCIL - ROOM 248

April 21, 1977

Senator James S. Abourezk, Chairman
American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2nd and D Streets, SW
Washington, D. C. 20515

Dear Senator Abourezk:

I wish to offer the following corrections to statements made in the tentative final report of the American Indian Policy Review Commission. On pages 3-5, a statement appears that the Mohegan tribe has no "official recognized relationship" with the state in which they reside, viz., Connecticut. This is not correct; the Mohegan tribe is one of the five indigenous Connecticut tribes recognized under sections 47-59b and 47-63 of the Connecticut General Statutes. Although they do not have a reservation today, State law provides for and they have a representative on the Connecticut Indian Affairs Council.

Concerning the information chart on pages 11-13 ff. The Schaghticoke reservation is located in the town of Kent, Litchfield County, while the Eastern Pequot reservation is located in the town of North Stonington, New London County.

If you have any questions about my comments please do not hesitate to contact me.

Sincerely,

Brendan S. Keleher
Indian Affairs Coordinator
(203) 566-7026

BSK:jpl

Solomon McCombs
Vice-Chief

Edward F. Moore
Executive Director

Creek Nation
Office of the Principal Chief
Claude A. Cox

April 25, 1977

Ernest L. Stevens, Director
American Indian Policy Review Commission
Congress of the United States
House Office Building Annex N. 2
2d and D. Streets, S.W.
Washington, D. C. 20515

Dear Ernie:

Enclosed herewith are the comments and recommendations of the Creek Nation to the Final Report of the American Indian Policy Review Commission. Our staff has attempted to consume the entirety of the proposed final report, analyze its content and to compile comments and recommendations which we feel are significant to Indian people as a whole.

It has been a great pleasure to have participated in the review of the proposed final report. If your office should have any questions regarding the attached, please do not hesitate to contact our office.

Sincerely,

Claude A. Cox
Principal Chief

CC:ec

Creek Nation Tribal Capitol Complex - Highway 75 at Loop 48 - P. O. B. 1110 - Okmulgee, Oklahoma 74447 - 918 756-8699

93-440 O - 78 - 20

FINAL AIPRC REPORT

The Formative Years: Policy Development through 1871

There are several different approaches that can be taken to the study of Native American history. Curiously, this one has chosen to leave out the inadequate description that is needed through the Colonial period from 1607 to 1776 or indeed until 1783. A more detailed discussion of the environment from which the United States and the Indian nations began co-existence is needed to demonstrate the historical relationships involved. The historical section leaves out a discussion of the concept of Colonialism that is very necessary for a study of the United States and Indian relations. The settlement of North America did not happen in vacuum. It happened as a result of the Colonial policy of Great Britian, France, Spain and Holland and it was a policy followed thereafter of unlimited immigration which allowed these colonial states to support themselves. This is a poor issue in the study of Indian history.

The tribal governments have to be viewed in the context of the span that has existed in the process of federation which occurred throughout the Atlantic Seaboard and occurred again and again inside the interior of the continent. It is something that has to be viewed as a phenomenon. In fact, various philosophical arguments concerning the Indian contributions, both to the world's conception of a federal system of government, and to the world's conception of democracy and limited government. We must remember that the culture was pointed to as example of government by consent, and is an example of limited government in claims which justified originally a serious democracy. We've got to remember that models from Tribal Governments were used in putting together many of the American state documents; otherwise, as far as details go and as far as the text of the Historical Chapter, it is very well done and deserves high praise.

There are a couple of small things that I think are important. On page 1-7 the report discusses, at the very bottom of the page the very last line, the proposals for organizing "Indian Territory". These continue to surface from time to time. The tribal nations remain separate and unequal. I think that it is important to know at this point that the reconstruction treaty wherein the United States received concessions from the Five Civilized Tribes under the theory of their conquerment although all tribes had split during the war and that no tribe remained united. The United States imposed a general council of the Indian Territory and provisions for that council were written into the Treaty of the Five Civilized Tribes in 1867. Furthermore, tribes which were removed from areas in other parts of the midwest and were relocated in Oklahoma, many of them had it written into their treaty as a result of coming to live in Oklahoma. That they would be allowed such representation were also often written into great detail. Congress appropriated

funds for this from time to time and the council met on a regular basis. The council has never been repealed and is a very important historical institution.

Another concept which remains to be discussed in the earlier sections of the report, Section 1 & 2, is the treatment of the Indian Governments as Nations in several other important senses. The first of these is that when the Five Civilized Tribes were placed in the Indian Territory under their removal treaties they were placed in such a situation that they indeed existed as border states between what was considered Federal Territory and what was considered the Territory of the Government of Mexico. This clearly indicates that the United States felt the Tribe had some attributes of sovereignty to be placed on the Spanish frontier. Of course, one of the Tribal Towns of the Creek Nation migrated from the United States into what was Mexican Territory and later became a reservation of its own in Texas.

The other important factor concerning the treatment of the Tribes as nations is the United States did not intervene in the civil wars of the Five Civilized Tribes. Until the erection of the Territory, and State of Oklahoma, the United States in no way ever intervened in a civil war of any of the Five Civilized Tribes, notably in the Creek Nation. It is important to know that in the Civil War itself, both United States and Confederate States were very anxious for the loyalty of the Indian Nations and they treated them as Nations. The region where they were, geographically, was of some great political power. This is why the tribes were torn assunder, they were given promises from the United States and the Confederate States. This can be evidenced by the Confederate Treaties involved, and also by historical research of the time; at the end of the war the United States promises were not kept but rather very harsh reconstruction was forced upon the tribes. The offer of the confederate treaties also included offers of representation in the Confederate legislature.

Also in the historical perspective, we must not forget trade patterns. These are also very definitive in the study of the United States-Indian relations and its history. The tribes traded with each other and they traded across long distances they migrated. Many tribes were migratory in one long movement and still other tribes were migratory in a sense that they wandered in no particular direction, but they treated each other always as a Nation able to co-exist upon the land or able to determine the limits of the lack of such co-existing. They always treated each other as Nations.

It is only this question of historical perspective that I want to insert at this time and I believe that on the whole, Chapter I, II and III are excellently conceived, developed and written and other than a few philosophical holes in them, I believe that they are an excellent presentation for the American Indian. Chapter IV, we believe, the priority should be given a statement and policy describing the trust responsibility and we favored the middle ground taken by the position which is a partial description of a very general concept of trust

responsibility. In support of the trust responsibility and statement of policy we would also like to give our support to the recommendations for a Indian Trust Rights Impact Statement. The section which favors legal representation for the Indians is well developed in good detail and seems to protect the rights of the tribes and the right of the individuals and protect the tribes for the first time against the inherent conflicts of interests involved in most federal departments and their administration.

In Chapter V of Tribal Government we support the recommendation that the support and development of Tribal Government should be a long-term objective of Federal Indian Policy. It's been reversed, rather, which has been the policy of the federal government to this point. We support the recommendation that Congress take no legislative action in relation to tribal jurisdiction over non-Indians. But in future questions relating to tribal jurisdiction over non-Indians, where jurisdiction is being retroceded, Congress should neither limit that jurisdiction to solely over Indians and it should commensurate with such plans of concurrent jurisdiction as it could be worked out between the tribe and the state.

Chapter V is very well developed, and as a whole, looks like one of the most comprehensive chapters and one of the easiest to comment on. I can whole heartedly support every recommendation under the chapter on Tribal Government with one single exception. Because of the discussion in Chapter 12 concerning the special circumstances of Oklahoma I believe that it is necessary that at some point in here, perhaps that in a separate recommendation, reference should be made to these same principles of retrocession being applied to the Indian Tribes of Oklahoma at their options; I believe that enough narrative should be inserted into the text of the report in Chapter V to report on the possibilities of litigation and legislation regarding the Oklahoma Tribes so that legislation is not forced upon those tribes who do not want it so that the long road of litigation is not forced upon those tribes to whom it would not help. Retrocession in Oklahoma is necessary and is a proper topic of Chapter V.

I heartily support the recommendations in Chapter VI on Federal Administration. They are detailed and comprehensive in nature and deal with a great many subjects, only one of which I wish to expand upon. I do support part of the recommendation saying that Congress should mandate the Bureau of Indian Affairs through the independent Indian agency to make available to all Indian Tribes copies of all operations and procedures manuals used by the Indian agency in its administration of Indian Affairs. However, the second half of the recommendation does not go far enough. Whereas, it states that Congress further mandates the Bureau of Indian Affairs for the independent Indian agencies to make available to all Indian tribes a copy of Title 25 of the United States Code, it should read, to locate in all agencies or sub-agencies a complete and up-to-date copy of the United States Code annotated and a complete copy of the Code of Federal Regulations, and two appropriate copies of Public Laws of the United States and of the Federal Registers.

Regarding Chapter VI we most importantly, support the recommendations to create an independent agency for Indian Affairs and that it be composed of the appropriate function within the Federal Government starting with the cores of Bureau of Indian Affairs, Indian Health Service and Department of Interior and Justice legal staffs and moving on to other appropriate programs and functions.

Moving to Chapter VII we can also give our whole hearted support for this section of this report, overall, it is developed well and many of the concepts are well outlined except for a few minor things which we would like to refer to below. There is one additional concept which we'd like to recommend inclusion. This would be the finding that the Federal Government has funded comprehensive planning for the Indian Tribes, yet the Tribes find themselves faced with a system which is not geared to implementing the comprehensive plan it is geared toward federal grants-manship. The subsequent recommendation which Congress devise the appropriate review process for congressional consideration of comprehensive plan implementation.

Basically I agree with the report; however, in some areas it does not go far enough. These will be dealt with in Section II of this report. The area that seems to be lacking from the report is long term consistancy in the Economic Development of Indian Country. Perhaps some type of trust council, elected from Indian Country, by Indians for long term (20 years) with Indian policy and effect review and comment authority over all legislation, executive policies, and judicial activities.

Another area which was omitted is any provision for the modification of all legislative activity which has its real effect ramifications which deter the economic development of Indian country.

Comments on various sections of the report are as follows:

Page 7-1 - 7th. paragraph - This statement is not necessarily so.
Page 7-8 - 4th paragraph - This statement is a good point.
Page 7-10- 2nd paragraph - Item 7 - Good point.
Page 7-13- Item 4 - Interest rate should be tied to some varying scale or escalator such as the prime interest rate.
Page 7-13- Item 5 - All trust monies invested by various agencies should have 100% protection.
Page 7-13- 2nd paragraph - concerning bond issues excellent point and good tool for funding hardware projects.
Page 7-18- 3rd paragraph - The entire paragraph boils down to Comprehensive Planning.
Page 7-36 Last paragraph - Added to the entire section should be an evaluation of the following possibilities for tribal government use:

1. Revised inheritance laws
2. Tribal power of eminent domain
3. Land use development plans
4. Zoning and development regulations
5. Tribal condemnation of land
6. Extraterritorial jurisdiction for development controls.

Page 7-42- Pollution of surface and underground water has an effect on water use in Indian Country and should be investigated.
Page 7-57- An addition to this section should be consideration of timber by-products and the use of non-millable or scrub timber.
Page 7-67- This section should include an investigation of the effects of 200 mile fishing boundaries.
Page 7-85- Holding funds in tribal trust is not in efficient utilization of money. Using trust money as leverage for capital investment is a better utilization of trust money.
Page 7-90- Item 5 - All trust monies invested by Federal agencies should carry a 100% insurance factor.

Editorial changes are as follows:

Page 7-7 - 1st sentence last paragraph - apparantly a word is left out of the first sentence.

Page 7-9 - Element line - word misspelled.
Page 7-39 - Second paragraph, fifth line, word misspelled.
Page 7-55 - Sixth line- a better phrase for "forward linkages" is "vertical integration".
Page 7-64- Last sentence is incomplete.
Page 7-77 - Sixteenth line - word misspelled.

One minor point would be the second recommendation regarding the availability of investment capitol in Chapter VII. One of the directions that Congress is suggested to give to the BIA is to consider applying the average daily balance concept just using a consumer credit operation to provide an interest rate for rapidly changing balances in some Indian Trust Funds as opposed to non-payment of interest. We would like to note that we oppose the non-payment interest. Any methods of computing interest is preferrable. One method as utilized by banking institutions as in our region is the transaction is only dated on the 5th day or on 10, 15, 20,25th or 30th. The interest is thus computed on those days, so there is not doubt as to the balance at any given moment.

Chapter VIII concerning the Social Services, it is one of the most important chapters of the entire report.

Social Services are the essence of the government as Western Society has come to understand it. Making proper provisions for the general welfare of our people is a necessary part of the role of the Indian Tribe. As a service delivery mechanism an Indian Tribe can truly serve the best interest of government both for its own people and for the role of federal trusteeship. Subjected to proper audit requirements and proper programming administrative requirements, Indian tribes are unequivocally the best mechanism for delivery of services to their tribal population and to their reservations. In many ways this area is going to be important to the future of Indian Tribes all across the country.

In accordance with the findings of the AIPRC, there also exist within the Creek Nation a number of agencies authorized to provide welfare services to the Indian population. As is also the trend on the national level, many Indian people do not receive the full benefit of the various programs. There seems to be a reluctance on the part of many Indians within the Creek Nation to apply for welfare services provided by the Department of Institutions, Social and Rehabilitative Services; the State agency charged with the delivery of such services in Oklahoma. In addition, there has been no recognizable effort on the part of this agency to work through tribal entities to identify and serve the Indian people in need of assistance.

It is agreed, as we stated in the AIPRC Report, that mechanism must be developed by which the Indian people will share in the assistance to which all people are entitled. These mechanism must be developed and implemented with input and assistance for tribal governments with sanctions against those agencies refusing to cooperate in the attempts to increase needed services to Indians.

The other recommendations made in the AIPRC Report are acceptable.

The child placement situation within the Creek Nation is such that concurrance with the following recommendations is made:

a) That the removal of Creek children from their homes, culture and society be halted.

b) Federal funds be made available to tribal governments for the development of Indian foster care home and institutions.

c) Statistical information concerning the present system be gathered.

d) Congress must address the problems and issues of Indian child placement.

As with other social service areas, it is imperative that tribal governments provide input into the development of a new system, and also be considered as the primary services provider with the acquisition of adequate funds and expertise.

In our health area, even though many of the statistics and conditions outlined in AIPRC Report primarily described the health situation on reservations, the health problems facing the Indian people within the Creek Nation are equally severe.

The recommendations made in the AIPRC Report that referenced reservations must be revised to include catchment areas served by tribal governments similar in status to the Creek Nation. Since the Creek Nation is presently implementing an ambulance, mobile clinic, and emergency and inpatient facility system for the pupulation of the Creek Nation, it is important for future development that Oklahoma Indian Nations be specifically included.

The special trust relationship between Indian tribes and the Federal Government has created a responsibility for the Federal Government to educate Indian people, but due to the fact that the Constitution of the United States delegates the responsibility of education to the states, a void has been created by the lack of recognition by states of Indian tribes and their educational needs. A conflict has been created when the States will not recognize Indian tribes and their educational needs.

1) It is necessary that agencies be established at the federal level to carry out the responsibilities of providing technical assistance to Indian tribes. For example an agency to accredit educational systems of Indian tribes.

2) Federal Funding for development of tribal education system.

The Creek Nation can whole heartedly support the recommendations in Chapter IX on Off-Reservation Indians.

The delivery of services to Off-Reservation Indians is consistant with the federal obligation to all Indians. Urban Indian services are necessary for the future of the Indian people and in no way does the Creek Nation want to argue against Urban Indian funds and Urban Indian centers, however, we would appreciate one small qualifier being inserted within the recommendation. The Congress should take notice, legislative notice, of the unique situation of urban areas existing with the reservation boundaries, and in its notice Congress should uphold the policy that such urban areas are within the jurisdiction of the tribes and therefore the primary vehicle with services delivery is the tribe. The Creek Nation supports the recommendations of Chapter X to restore full federal recognition to all terminated tribes. In principle, the Creek Nation recognizes the necessity of giving proper federal recognition to many heretofore unrecognized tribes, we believe that the policy of recognition is too lax and will cause fraud and the resulting decrease of services to heretofore recognized tribes. In the unrecognized tribes area there is a very serious question as to how the historical accidents of separated bands of tribes shall be treated. We believe that the problem of separated bands should have priority over completely unrecognized tribes, however, we also believe that heretofore unrecognized bands should be dealt with in coordination with the tribe involved. If you will use the report itself as reference and use the chart of available information on non-federally recognized Indian tribes at the end of Chapter XI, you will notice that in Alabama it has listed the Creek Nation East of the Mississippi, in Florida it has listed the Appalachicola Tribe which claims treaties rights without reference to the fact that the Appalachicola Tribe was the Tribal Town of the Creek Nation. In Florida, it also listed as the lower Creek Tribe of East of the Mississippi. In Georgia there is listed two groups who claim to be the Creek Nation East of the Mississippi. So here we can plainly see that there are six organizations claiming to be the Creek Nation East of the Mississippi, or some component thereof. These are separated bands, they are products of bloody, and bitter removal and these people that are Indians deserve to have their rights protected. But only in a manner upholding finest traditions of the federal relationships and not in some hap-hazard manner that's going

to recognize some illegitimate so called tribal government.

In Chapter XII, it would be inappropriate to comment on the special circumstances in Alaska and California, so my attention will be concentrated on the special circumstances in Oklahoma. On page 12-39 where it talks of the jurisdiction of government of all persons and property of the Choctaw Nation and that no part of the land granted them shall ever be embraced in any territory or state and it says that similar provisions may be found in the removal treaties of each of the tribes. It must also be noted that these guarantees have never been litigated and that the meaning of the terms at the time were a part of the consideration for a contract between the Tribe and the United States and this consideration has never been dealt with by a court of law.

On page 12-40 where it discusses the 1867, not 1866, treaties concluded by each tribe in the civil war, the five tribes did not fight the confederacy during the Civil War. In fact, the Seminole in no way ever sided with the confederacy in the Civil War, the Creeks and Cherokees and to a lesser degree the Choctaws and the Chickasaws were all split in different factions, did different things, and because of the turmoil in Indian Territory at the time it is impossible to tell who was siding with whom. The 1867 Treaty also contained a promise by the Tribe that the United States Congress would be able to exercise the general jurisdiction over the tribe for the benefit of the tribe and that tribe would be able to maintain their form of self-government and their right of self-government.

In the following section of the removal of Midwestern Tribes, it is important to note that a general council of the Indian Territory was established in the reconstruction treaties of the five tribes and was written into several if not most, in fact if not all, of the treaties of the Western plains tribes and the midwestern and southern plains tribes that were moved into Oklahoma. The staff of the commission should survey these treaties and find out how many of them included general council of the Indian Territory and should also give history of the appropriations which Congress gave to fund this and should cite examples from Senate reports and House reports with or without federal appropriations, however, this council continued to function for some time.

The discussion beginning on page 12-48 and concluding on page 12-50 discussing the dismantling of the Five Civilized Tribes and the effective state jurisdiction is wholly inadequate. In error the section has done an inconclusive legal analysis on the extent of the state jurisdiction. Therefore, attached for the consideration of the commission is the memorandum written under the contract to the Creek Nation and the judicial and legislative decision of importance are also attached along with it.

On page 12-59 the commission uses the definition of Part C, Section 1151 of Title 18 United States Code as being applicable to Eastern Oklahoma. The commission should re-examine this,on the other hand, the Title 18,

Section 1151, Parts A, B, and C are all applicable to Eastern Oklahoma in different senses and to narrow the construction of this nature is not going to help the tribes in Eastern Oklahoma. The recommendation supporting the reservation status for the Eastern Oklahoma Tribes should affect the legal status of the tribe in addition to making the tribes eligible for certain federal domestic systems programs.

The section on Trust Lands from page 12-67 through page 12-69 does not even discuss the situation of the Five Civilized Tribes. All the statistics given are applicable only to Western Oklahoma, although there is some application to Eastern Oklahoma.

The section on Indians on page 12-70 through page 12-71 is hardly a good discussion on water rights at all, in fact it uses the discussion of the Choctaws, Cherokees, Chickasaws' suit against the State of Oklahoma as an example of water rights, while the suit in fact dealt with only title to lands and did not mention water in any way or in any form.

Over all, however, the Creek Nation can support Chapter 12, in its recommendations concerning the tribes of Oklahoma in general and the Five Civilized Tribes, and the Creek Nation in particular. We hope that this provides an atmosphere of independent retrocession on the part of each tribe so that no tribe feels bound to any other.

It is very important to point out that this would not infringe on the treaty of any of the tribes involved. Any tribes which would rather not follow the process of retrocession but instead would rather precede with litigation in a court of law would be entitled to do so, and would be able to procede in that manner without it infringing upon its own rights.

In Chapter 13, the Creek Nation support the recommendations given concerning the National awareness toward the Indian issues, alternative elective bodies representing National Indian interests, consolidation revision of codification of Federal Indian Law in creation of Native American Studies Division in the Library of Congress.

IMPORTANT

We recognize that you may not be able to thoroughly read and evaluate all parts of this Report within the time allowed for comment. However, in order to include your comments in our Final Report, this questionnaire must be completed and returned in the enclosed envelope postmarked no later than April 16, 1977. Our Final Report must be completed by May 15, 1977 for final Commission approval.

NAME Claude A. Cox, Principal Chief ADDRESS P.O.Box 1114

TRIBE/ORGANIZATION Creek Nation Okmulgee, OK 74447

A. PLEASE CIRCLE ONE TO INDICATE YOUR IDENTITY AS:

(Tribal Chairman) Tribal Governing Body Individual Indian

Member of Congress Organizational Governing Board

State Official Private Citizen

B. PLEASE EVALUATE THE SECTIONS BY CHECKING THE BLANK WHICH MOST NEARLY REPRESENTS YOUR OPINION.

	Excellent	Good	Poor
The report as a whole is	X		
I. History		X	
II. Legal Concepts	X		
III. Conditions	X		
IV. Federal-Indian Relations	X		
V. Tribal Government	X		
VI. Federal Administration	X		
VII. Economic Development	X		
VIII. Social Services			
IX. Off-Reservation		X	
X. Terminated Indians		X	
XI. Non-Recognized Indians			X
XII. Special Problem Areas		X	
XIII. General	X		

C. HAVING READ THE RECOMMENDATIONS AT THE END OF EACH SECTION, PLEASE ANSWER THE FOLLOWING QUESTIONS.

1) Which recommendations should be given priority status? Why? See attached comments and recommendations

2) Are there recommendations with which you disagree? Why? See attached comments and recommendations

3) Are there recommendations you would like to have added? See attached comments and recommendations

4) Do you feel the content of the report provides an accurate, useful picture of the situation? See attached comments and recommendations

5) Do you have any additional comments? See attached comments and recommendations

F. SPACE IS PROVIDED ON THE FOLLOWING PAGES FOR YOUR SPECIFIC RECOMMENDATIONS.

NAME_____ ADDRESS_____

TRIBE/ORGANIZATION_____ _____

RECOMMENDATIONS

Chapter ( ) Page ( ) Paragraph ( )

In the section beginning with the words "_____

_____," it is suggested that the following addition, deletion or change in wording be made, or the following concept expressed differently:_____

See attached comments and recommendations

LAW OFFICES

DELLWO, RUDOLF & SCHROEDER, P.S.

ROBERT D. DELLWO
KERMIT M. RUDOLF
RICHARD J. SCHROEDER
TERRY W. MARTIN
TERRY T. GRANT

1018 OLD NATIONAL BANK BUILDING
SPOKANE, WASHINGTON 99201
(509) 624-4291

May 4, 1977

Senator James Abourezk, Chairman
Select Committee on Indian Affairs
Dirksen Office Building, Room 1105
Washington, DC 20515

Re: Report of Indian Policy Review Commission

Dear Senator Abourezk:

As you may recall, we represent several Tribes (Spokane and Kalispel Tribes of Washington and the Coeur d'Alene Tribe of Idaho) and have your letter of April 8, 1977 asking for our comments on the reports of the Indian Policy Review Commission. Of primary importance at this time is the volume entitled "Tentative Final Report" which includes the "Dissenting Views" of Congressman Meeds.

I have attended several regional meetings where this tentative final report was discussed and to say that the Indian delegates were dismayed by Congressman Meeds' "Dissenting Views" is an understatement. The general reaction of everyone present at each of these meetings was his "Views," coming as they do at the end of the report, practically nullify the entire report. Unanswered, it would seem that his "Views" as expressed brings to naught the entire process of the Review Commission and the Task Forces.

Every Tribal Attorney I know has been asked to frame some kind of reply but each has shrunk from this task because, as a practical matter, it would be of doubtful expediency for any tribal lawyer to file an "answering brief." The consensus of everyone is that that task almost from necessity must fall on you, the Chairman. To be persuasive and of any real effect in neutralizing the content and thrust of Congressman Meeds' "Views" a counter draft from you as Chairman should appear.

Congressman Meeds, on page iv of his "Views," acknowledges that he retained attorney Frederick J. Martone of the Arizona bar to assist him in his critique. What resulted was a legal brief by the Martone law firm, a kind of brief we as practicing lawyers would expect to receive from opposing counsel in a tribal tax or water rights case. It is highly partisan and adversary and cries out for a reply. Might we suggest that you retain the assistance of legal counsel to in effect prepare a reply brief which you, as Chairman, could adapt in your reply or "Answering Views."

Senator James Abourezk May 4, 1977

Congressman Meeds begins by stating that it had been hoped that "Congress would have before it an objective statement, etc." He then describes the "majority" report as being "one-sided advocacy in favor of American Indian Tribes."

Assuming Congressman Meeds is correct in his description summarized above, one would think that he would have made a special effort himself to hew in the direction of "objectivity" and would not have filed what everyone versed in Indian law will recognize as an extremely biased, one-sided dissenting reply. He has made the very mistake he accuses the Task Forces of.

Tribes are taken by surprise over Congressman Meeds' expectations of the Task Forces as being somehow "neutral and objective." He should know better than anyone else that there was not the slightest pretense of staffing the Task Forces with neutral people. Everyone was an Indian leader or well-known advocate of Indian causes. They were, in truth, expected to be Indian and Tribal advocates.

The hearings I attended were impartially and well conducted. To have expected true neutrality, however, would have been expecting the impossible. If the Commission expected such, it should have so appointed the Task Force representatives, balancing them as arbitrators, one against the other. This was not done because neutrality was not intended or expected. Rather, what was expected was the gathering of facts and arguments to express and document the Tribal and Indian views. It was the job of the Commission itself to take this material and forge a realistic final document properly placed in the spectrum of reality.

Congressman Meeds' legal brief, entitled "Dissenting Views," poses a serious problem for the various Tribes and participants in the Review Commission. It is a copious 100-page brief in which are interspersed his editorialized conclusions and comments. Without those comments, it is a brief almost identical to briefs from State taxing agencies and others involved in litigation against Indian Tribes. For example, I am just finishing our Reply Brief in the Spokane Tribe's Chamokane water rights case against the State of Washington. I have before me the briefs of the State of Washington. They cite many of the cases cited by Congressman Meeds. In comparison to the Meeds brief, they would be considered moderate. They do not leap to the same extreme conclusions from the cited cases. Their stated positions are comparatively professional and detached.

To cope with the Meeds' brief, replete as it is with unsupported conclusionary statements, would require someone such as yourself, backed by a professional attorney's brief answering Congressman Meeds' basic points one by one.

How does one deal with Congressman Meeds' conclusion wherein he states with conviction that the Report "is neither legally nor historically accurate . . . and springs from initial erroneous conclusions re sovereignty, jurisdiction and trust responsibility?"

Yet, in analyzing his brief, we find his own conclusions questionable. We find a one-sided lawyer's handpicking of cases and dicta to fit a preconceived pattern of legal thought.

Let us take one example:

We find on page 2 his statement regarding Indian Sovereignty that "They are not sovereign." He then follows this thread to his conclusion that the Tribes have only such sovereign governmental powers as Congress allows them to have and "A tribe's power is limited to governing the internal affairs of its members . . ." And he says on page 5: ". . . the extent American Indian Tribes are permitted to exist as political units at all . . . is by virtue of the laws of the United States and not any inherent right to government, either of themselves or of others."

This "put down" to tribal governmental powers permeates the whole treatise.

Congressman Meeds' "Views" make only oblique, disparaging references to that classic statement of Indian sovereignty powers found on page 122 of Felix Cohen's Handbook of Federal Indian Law:

> Perhaps the most basic principle of all Indian law supported by a host of decisions hereinafter analyzed, is the principle that those powers which are lawfully vested in an Indian tribe are not, in general, delegated powers granted by express acts of Congress, but rather inherent powers of a limited sovereignty which has never been extinguished. Each Indian tribe begins its relationship with the Federal Government as a sovereign power, recognized as such in treaty and legislation. The powers of sovereignty have been limited from time to time by special treaties and laws designed to take from the Indian tribes control of matters which, in the judgment of Congress, these tribes could no longer be safely permitted to handle. The statutes of Congress, then, must be examined to determine the limitations of tribal sovereignty rather than to determine its sources or its positive content. What is not expressly limited remains within the domain of tribal sovereignty.
>
> The acts of Congress which appear to limit the powers of an Indian Tribe are not to be unduly extended by doubtful inference.

Cohen then went on to say on page 123:

> The whole course of judicial decision on the nature of Indian tribal powers is marked by adherence to three fundamental principles: (1) An Indian tribe possesses, in the first instance, all the powers of any sovereign state. (2) Conquest renders the tribe subject to the legislative power of the United States and, in substance, terminates the external powers of sovereignty of the tribe, e.g. its power to enter into treaties with foreign nations,

but does not by itself affect the internal sovereignty of the tribe, i.e., its powers of local self-government. (3) These powers are subject to qualification by treaties and by express legislation of Congress, but, save as thus expressly qualified, full powers of internal sovereignty are vested in the Indian Tribes and in their duly constituted organs of government.

What Cohen stated to be the law in 1940 is the law today. Since then almost every court case dealing with tribal governing powers has quoted and affirmed these classic definitions.

They are ignored in the "Dissenting Views."

The writer has before him some of the well-circulated diatribes against Tribal rights and sovereignty. Some of them, as you know, originated out of MOD (Montanans Opposed to Discrimination) based in Polson, Montana. But have you seen ARE WE GIVING AMERICA BACK TO THE INDIANS that has no named author but is circulated by an anti-Indian organization described as the Interstate Congress for Equal Rights and Responsibilities? These diatribes and attacks remind one of the anti-Semitic literature so prevalent a decade ago or of the Birch Society attacks on liberals. Stated in plausible language from an alleged patriotic rostrum, they are indeed scurrilous attacks against Tribes and Indians.

We find in that literature sentences that read very much like some of Congressman Meeds' "Dissenting Views." Let's read a few:

Page 8: " . . . the Court examined the legal impact of European settlement and concluded that discovery gave title to the continent to the European nation which made the discovery . . ." (Note: This view was repudiated in the famous Worcester v. Georgia case.)

Page 15: ". . .Reservation Indians would have all the benefits of citizenship and none of its burdens."

Page 16: ". . . non-Indians would have all the burdens of citizenship but none of the benefits. This is a strange scheme to behold."

Page 18: "American Indian tribal governments have only those powers granted them by Congress." (Note: Most of the governmental powers of tribes are held to be implied and inherent. Except for the skeletal grants of power for IRA tribes, Federal statutes are practically silent on any grants of governmental powers.)

Page 18: "To the extent tribal Indians exercise powers of self-government in these United States, they do so because Congress permits it."

Page 20: ". . . tribes may govern their own internal relations by the grace of Congress."

93-440 O - 78 - 21

Senator James Abourezk May 4, 1977

Page 25: ". . . When these relationships culminated in peace treaties, it is simplistic, to say the least, to assert that the Indians reserved anything to themselves . . ."

Page 25: " . . . I also reject the broad assertion that tribal Indians have reserved to themselves inherent rights to self-government and property rights . . ." (Note: This comment flies in the face of settled law that they did reserve basic governmental powers and many property rights, i.e. Winters water rights.)

Page 52: ". . . there is no reason why Indians, any more than anyone else, should receive favored tax treatment from the Federal Government." (Note: What happed to the legal principles affirmed in the famed Cappoeman, Nicodemus and Stevens tax cases?)

Page 54: " . . . It may be seriously doubted whether Indian tribes enjoy the power to tax." (Note: See Felix Cohen's statement, page 142, of his famous Handbook wherein he says: "One of the powers essential to the maintenance of any government is the power to levy taxes. That this power is an inherent attribute of tribal sovereignty which continues unless withdrawn or limited by treaty or by Act of Congress is a proposition which has never been successfully disputed." Each of the tribes the writer represents has taxing ordinances.)

Page 84: ". . . an Indian reservation created by executive order of the President conveys no right of use or occupancy . . . beyond the pleasure of Congress and the President." (What a horrible distortion of the law!)

Page 92: ". . . an Indian tribe is above the law . . ." and as to contracts with tribes . . ."the agreement is enforcible only by the tribe . . ." (This is a gross exageration.)

And finally page 102: "Doing justice by Indians does not require doing injustices to non-Indians . . ."

The foregoing are trigger phrases addressed to a growing anti-Indian bias. They should not be in the concluding chapter of the report of the Policy Review Commission. We hope that you as Chairman can make arrangements for a dignified, suitable reply.

Respectfully yours,

ROBERT D. DELLWO

Attorney for the Spokane, Kalispel and Coeur d'Alene Indian Tribes

RDD:fb

cc: Spokane Tribal Council
Kalispel Business Committee
Coeur d'Alene Tribal Council

Senator James Abourezk May 4, 1977

cc: Area Office of Indian Affairs
Superintendent, Spokane Indian Agency
Superintendent, Northern Idaho Agency
Mel Tonasket, President, National Congress of American Indians

IMPORTANT

GEORGE C. DELONEY
3329 NORTH OAKLEY AVE.
CHICAGO, ILLINOIS 60618

We recognize that you may not be able to thoroughly read and evaluate all parts of this Report within the time allowed for comment. However, in order to include your comments in our Final Report, this questionnaire must be completed and returned in the enclosed envelope postmarked no later than April 16, 1977. Our Final Report must be completed by May 15, 1977 for final Commission approval.

NAME George C. Deloney---3329 N. Oakley ave ADDRESS Chicago, Ill. 60618

TRIBE/ORGANIZATION Chippewa: Alliance of American Indian Craftsmen, Inc

A. PLEASE CIRCLE ONE TO INDICATE YOUR IDENTITY AS:

Tribal Chairman	Tribal Governing Body	(Individual Indian Allottee)
Member of Congress	Organizational Governing Board	
State Official	Private Citizen	

X My identity: Allotted member of Bad River Reservation, Odanah, Wisconsin

B. PLEASE EVALUATE THE SECTIONS BY CHECKING THE BLANK WHICH MOST NEARLY REPRESENTS YOUR OPINION.

	Excellent	Good	Poor
The report as a whole is - variable good			
I. History	✓		
II. Legal Concepts	✓		
III. Conditions		✓	
IV. Federal-Indian Relations - some may generate for what?			✓
V. Tribal Government On Allotted Reservation - Tribal Council no-good			✓
VI. Federal Administration - on reservation - too complex for Allottee			
VII. Economic Development no time to read			
VIII. Social Services	✓		
IX. Off-Reservation - metropolitan Indians need strength Federal jurisdiction			
X. Terminated Indians	some poor measurements		
XI. Non-Recognized Indians	Having read at glance -		
XII. Special Problem Areas	cannot check - didn't read or study		
XIII. General	✓		

GEORGE C. DELONEY
3329 NORTH OAKLEY AVE.
CHICAGO, ILLINOIS 60618

GEORGE C. DELONEY
3329 NORTH OAKLEY AVE.
CHICAGO, ILLINOIS 60618

APR 19 1977

NAME George C. Deloney

ADDRESS 3329 N. Oakley ave.
Chicago, Ill.60618

TRIBE/ORGANIZATION Chippewa; Alliance of American Indian Craftsmen, Inc

RECOMMENDATIONS

Chapter ( ) Page ( ) Paragraph ( )

In the section beginning with the words "_____
_____," it is suggested that the following addition,
deletion or change in wording be made, or the following concept expressed
differently: Have received several overall tentative cognizable
volumes re Policy of Task Forces investigations.
Presently I have reported the Metropolitan (Urban)
Indians situation in this area.

I have appeared before two Task-force inquiry.
One here in Chicago, another time in Superior, Wis.
Also been in contact with Louis Bruce with Indian
complaints. That had need immediate attention.

So I apologized for not committing myself.

GEORGE C. DELONEY
3329 NORTH OAKLEY AVE.
CHICAGO, ILLINOIS 60618

Geo. C. Deloney
3329 n. Oakley ave
Chicago Ill. 60618
ph. 312-549-0372

Mr. Ernest L. Stevens.
Amer-Indian Policy Review Commission
2nd and D Sts. SW.
Washington, D.C. 20515

Sen. Jim. S. Abourezk.
Cong. Sidney Yates.
Mr. Louis R. Bruce.
Mr. Kirke KickingBird.

Gentlemen and Members of the Commission:

Thats one "ELL" of a bible that the commission submitted for individual real positive American Indian to scant through in such short time for his comments.

If this report wanders-off from real expected subject that the Urban and reservation Indians would reveal or should tentatively report.

Try to comprehend the anguish, that the War and the BIA commission have render to the reserv ion Indians.
Especially to the reservation that had been allotted to individuals.

Since the Wheeler-Howard Act, was crammed upon the "ALLOTTEES" without their exception. They realized the reservation live was doomed.

I am a Allottee from the Bad River Reservation located in Ashland County Wisconsin. Which I still possess but pay Taxes on my U.S. grant

After the Tribal Council was effecting the individualism of the allottees. I applied for certificate of competency for removal of restriction, which I received.

When the Wheeler-Howard was being substituted for the BIA operation. The Indian Agency officials had connived or manipulated that "non-allotted" Indians to vote for the none voting allotted Indians for "Self-Government.

With this structure or elements of Indian Treaty Rights on allotted reservation. It began a conflict between the Allottees and the non-allottees for existence.

Presently the only inhabit Indian should benefit for our Treaty Rights would be the "Inheritance or direct Devisee Indian" from allotments.

If the said allotment had not been confiscated to Tribal property.

Amer-Indian Policy Review Comm.

The urban atmosphere for the American Indians in the Chicago area. Have met with overwhelm cognate set-back or defeat.

When or if some Indians are uniawful they are severely penalized, while their comrades are cited or restricted for being in accomplishment.

Several Indians have been murdered in this area by non-indians. Guilty persons that admit the motivation would have the case continue out of existence.

If another Indian commit the same crime, he or she is placed on five (5) years probation to be serve on their home reservation.

Periodical some Indian is raped or found naked dead. Or otherwise murdered. The City officials will not extent their efforts to investigate for the culprits. When the victims are American Indians.

The Urban Indians have no protection for being victimized in this area.

The State of Illinois Children and Family Services are the only legal structure that allows protection for Indian Children.

I have appeared before Task-Force in relation to the American Indian Policy Committee here in Chicago.

I related my circumstances of how the Children and Family Services had Kid-napped our grandchildren.
Maybe they had conspired warrant to barge into our home for one (1) of the oldest grandchild.
Who was unfortunate to be born out-of wedlock.

This whole plot was generated by the supposed parents of deceased married son who may have genesis with our un-married daughter.

When our grand-daughter was apprehended in this invasion the officials also had taken into custody her youngest sister who had no relationship in this conspiracy.
This infraction was construed Janruary 19teen 1970.

Since that date I have spent 10 to 15 thousands of dollars engaging attorneys for the recovery of our grand-daughters.

Last August 17teen 1976, we were fortunate enough to be consider the return of our oldest grand-daughter.
Who is now in our stable custody in our home.

Amer-Indian Policy Review Comm.

Shortly after the Children apprehension. The caseworkers for the Children and Family Services separated the two sisters to different Adoption Centers.
This action was instigated by the Children and Family caseworkers, while our case was still pending in Children Juvenile Court.

In absent of parental or Juvenile Court supervision rights, while the Court was still analysing our case history, with court continuances.

This Adoption Canter had conspired with the Children and Family Service to allow our youngest grand-daughter to be adopted with-out our rights.

When we were notified of this adoption, we engaged another attorney through the recommandation of Bertram E.Hirsch attorney with the Association on American Indian Affairs of New York City.

This local attorney had applied to the State Supreme Court for review of our Indian Child adoption. Which they denied our Indian Civil Rights.

Hesitatingly we cannot appeal our court situation as we cannot fare the expense for Indian children protection. Or to gain other protection.

Amer-Indian Policy Raview Comm.

The matropolitan (Urban) Indians have highly skill craftsmanship. That is regarded by their employers and unions to be out-standing.

Societies are no unbias concern, if the Indian is willing to prove that he's capable of his mastership of his Tradition.

We have excellent Indian construction workers in all major crafts. Welders, Riggers, Carpenters, Steel or Iron Workers, High window-washers, Truck-Drivers of all sorts, Deep-sea Divers, Cement Finishers, Boiler-Makers, Heat-Treaters, Ship-wrighters, Watch-Makers, Wood-cravers, Furniture-repairers, Pier and Wharf Builders, Auto Mechanics, Crane-operators, Interior Decorators, Meat-Butchers, Mason-Tuck Pointers, Pipe-Fitters, Taxi Drivers, Bus Drivers, Bar-Tenders, Cooks, Painters, Roofers, Gardeners, Tree-Trimmers, Type-Writer repairers, Factory-Workers, Black-Smiths, Cabinet-Makers, Boat-Builders, Carpet and Rug Layers, Millwrights, Stair-Builders, Caulkers and Pile Drivers, Display Erectors, and Electricians.

All of these mentioned craftsmen, are Union members of Chicago.
Also we have retired Indians from reservation who have earned a pensions for their union stabilities.
Which means they may return to their reservation with this income.

While I am mentioned the Union Indian craftsmen, we also have many professional Indians in this area.
Accountants, Office-Typists, Office-Controllers, Short-Hand Writers, Social-Workers, X-Ray Technicians, Nurses, Receptionists, Artists, Executives, Teachers, School Directors, or Principals, Librarians, and University Standards.

Those Indians that compose in these different categories, are the inspired Indians that were raised on some Indian reservation.

Most of them had hard knocks before they became familiar with the matropolitan diversion.
They had to earn and prove to realize themself that they had the stability to exist from their native tradition.

Still the majority, have the impulsiveness for their home reservation, which they visit frequantly.
As they are all Tribal members, and still claim their Tribal rights.

Amer-Indian Policy Review Comm.

There are several American Indian Organizations here in the Chicago vicinity. And few more others in the neighboring locations. (Cities).

The principal inaudible faction that the relationship exist between these Tribal societies.
Which spirit them that they are connoting the same ideals they have.

This maybe the adversity that metropolitan Indians have relinquished for the lack of full co-operation.
It a understanding fact that every other Indian native has different view on their tribal tradition or custom.

Some will not contribute their craftmanship for employer, unless the company or contractor engages another native of his same race.
Other successful craftmen (Indians) will admonish to the company personal or non-indian crews that they have number one (1) citizen to content with. Wish often proves that everybody can be familiar.

The female anxiety appears that when they are employed without anyother of their same lineage (Indian).
That they complain that the non-indians are criticizing them. So.....

The newly Indian trainees that have no experiences in special safety precaution such spacial work dress gears. (clothes and safety belts).
Complain that they have no credit or expense to obtain this equipment.
Or how they will manage to afford to join the Unions.
So they too get discourage.

Basically most reservation Indians that arrives in the metropolitan area want to become involve in the Indian atmosphere.
Be employ in government offices, and Indian organizations.

While I am only whitling down the character of some of our inexperiences young Indian Leaders of to-morrow.

I must phase that we have had successful Indian policemen, fire-men, and independant Businessmen from Indian reservation.
Some still own their apartment buildings, here in Chicago.

So without any drawbacks or discouragements most of these American Indians could become a prominant independent number one citizen.

But they need plenty of encouragement and assistances.

Amer-Indian Policy Review Comm.

Currently I will expedite my measurements of infiltration with off the reservation activities.

I first committed myself with paid tuition to attend a Milwaukee,Wis., Vocational School. (1927).
Which I had to familiarized with other race elements.
As a scholar I commented that what these students could master.
I could excel better.

When high-way road building began in the 1930's, I became a highway road cement-finisher. Which I first worked as a Union member on permit.
This highway work was sparingly or seasonally.

Next I became familiar with the stevedore labor in the Milwaukee Ports.
Which this Union utilise stable members for wharehouse activities.

From that experience with loading trucks and semi-trailers.
I final declare that I could operate any truck-vehicle in the city or on the highways.
I applied and received Union truck-operator's certificate for driver.
This certificate allow the holder to operate city taxi cabs also.

During world-war two, the government was building ship-yards, and building some kind of war-ships in the Milwaukee area.
So I join the Pile-driver Union to become a ship-wright builder.

Finnally the general contractor, Raymond Concrete Pile Company of New York City with whom I wasemployed.
Had me transferred to Chicago where they had several building contracts in the construction operation.
So I had to transfer my Union affiliation as I was in charge of operation. Plus I had to move the family without any future plans.

With that move from reservation to be responsible of building action in becoming Foreman and sub-superintendent.

Was a great venture for undeveloped Indian without no education or experience of building high-rises, churchs, and Bank buildings.

If I had more knowledge or modern building experiences I could still be engage in a swivel chair.
As it is now I am in the semi-retired classification.
Have to accept pension and social security for having the guts to leave the Indian reservation.
And raise six boys and four daughters in the metropolis.

Yours—
George C. Belgarde

Nancy Evans
Window Rock, Arizona
May 5, 1977

Response to:
American Indian Policy Review Commission
Final Report

SOCIAL SERVICES & FINANCIAL ASSISTANCE-
FOR INDIANS

Social Services and Financial Assistance programs for Indians present unique case. Administrative authority to deliver these services vary diversely for those Indians living on reservation under the authority of the federal government to those Indians living in other setting outside the authority of the federal government.

A number of specific recommendations can be made based on the traditional federal-tribal relationship and for those Indians in other settings where varying degree of authority are shared by tribes, states and the federal government.

Financial Assistance Programs

1. Social Security Act Financial Assistance Programs: Financial Assistance programs under the Social Security Act as the Aid to the Aged, Aid to the Disabled, Aid to the Blind and Aid to Dependent Children were administered totally by the State until 1973 when parts were placed under a federal agency. These assistance became available to Indians mainly in the 1950's after many disputes with states as to whether Indians are eligible.

Even today eligibility criteria are often not to the benefit of Indians where questions of resources and income prevent many people from receiving regular financial assistances; and the amount of assistance often are lower for Indians residing on the reservation.

2. Snyder Act Financial Assistance Program: BIA under the authority of the Snyder Act made available to Indians on reservation financial assistance called General Assistance. Although the eligibility criteria are simple: (1) that one must be an enrolled Indians; (2) that the Indian must reside on the reservation and (3) that one must be in need; the interpretation of eligibility varied from one area to another and practices varied from one caseworker to another.

Up to 1973, the 66 IAM was the only BIA Manual which provided the guide for providing this assistance to Indian people. With the Morton vs. Ruiz determination and decision BIA was requested to published its regulation in the Federal Register. The proposed regulations were

published in November 1975. Comments which were received were reviewed and incorporated into the final regulations in the spring of 1976. A number of critical issues remain unanswered although attempts were made to clarify these during the writing of the regulations.

a. Definition of "on or near:" the Tribal governmental units are asked to define this jointly with the BIA officials.

b. Standards of Assistance (amount of grant) still follow the respective established state standards so that non-uniformity of assistance continues.

c. Clarification of what is meant by "availability of assistance" versus "actually provided."

After the final Regulations were drafted the Tribes were asked to recommend an "on and near" definition for determining eligibility for assistances for their own tribal members. BIA is now in the process of updating its manual to reflect the published regulations.

Recommendations for Financial Assistance

1. There must be a national uniform standards of assistances applied in all states so that these can be reflected in individual services and assistance.

2. There must be clear indication that financial assistance is made available to prevent disintegration of family units and not to employ standards which provide assistance only to broken and dependent families or individuals.

3. Because the level of poverty in Indian land is severe, continued BIA General Assistance funding is needed until such time that a federal program nation wide is established that will meet the needs of the unemployed and underemployed which the BIA program presently addresses on Indian Reservation.

4. Because BIA General Assistance is not uniformly available to all Tribes and Reservation, the need for BIA General Assistance for Indians residing on reservation in the PL-280 States be evaluated. If inadequate financial assistance programs or severe poverty are found, BIA should consider making BIA General Assistance available to the Indians in these areas.

Social Service Programs

Issues related to social services for Indians are extremely important

for two reasons: (1) many social services involve legal and jurisdictional matters requiring Tribal government to establish Tribal legislation standards and conduct of services, and (2) since social services deals with human values and human value system as child-rearing practices and family problem solving, it is essential that Indians and Tribal organization maintain close surveillance over social services for their tribal members.

1. Social Security Act Social Service Programs: Since 1963 the Social Security Act has provided funds to States (and states only) to administer certain social services for people. This worked well as long as the States directly provided services and as long as Indians traditional practices and values were not jeopardized. Conflicts arose when question of who has jurisdiction to make decision for Indian families and Indian children were challenged. This challenge is carried into who should administer social service programs for Indians. With the Indians determined to maintain jurisdiction over its tribal members these conflicts mushroomed and remain unresolvad today.

In the interest of Tribes the ideal situation is where a Tribe can receive all funds available for social services: where the Tribe can establish the codes and standards for services; and where the Tribe can administer and provide the services to its tribal members. This ideal situation is not possible under the current funding mechanism because Indian Tribes must first fight with the State to get any social services funds under the Social Security Act. States are reluctant to contract with Tribes because of uncertainty in enforcing eligibility and other federal funding requirements. The Tribes continue to be reluctant to deter any matter of jurisdiction to States for fear of eroding Tribal government authority.

There is widespread support that all federal funds should be available directly to Tribes, rather than designating States as pass-through channel. Inter-Tribal Council of Arizona in October 1975 summarized the crux of the issue with the following statement: "There have evolved over the years fundamental and essential principles that are adhered to in Federal-Tribal relationships. The State and its subdivision coordinate and cooperate within the framework of laws and regulations formulated over a considerable period of time. Given the special character of the Tribes and the reservations as defined by the Tribes and the Federal Government, it cannot be expected that the tribal structures can suddenly developed a relationship with the State structure without some special adjustments on the part of the State and the Tribes. In order that the tribes can relate to the state, they will want to maintain the necessary and desirable relationships they have with the Federal structure."

The difficulties evolving around the jurisdiction and legal problems cannot be resolved through negotiation between two parties where three are actually involved.

2. Snyder Act Social Service Programs: Again BIA administers social services as provided under the Snyder Act. Again, BIA has continuously looked to States for guides resulting in lack of uniformity in programs or practices.

Up to 1973, 66 IAM provided the only guide for BIA programs. With the Morton-Ruiz decision the Regulations were published and are finalized. A number of issues require review and monitoring:

1. Clarification of "availability of services" versus "services actually provided." Because various BIA office continue to maintain "availability on paper" as synonymous with "actually provided" there is lack of uniformity in services provision.

2. That other social services as are provided by the Social Security Act funds not jeopardize BIA funding for social services. Because the Social Security Act funding is limited and there is caution against "supplanting of programs,"these issues should be reviewed in terms of needs in Indian settings. Joint funding must be explored as answers to gaps in funding needs. The level of funding through BIA to fill gaps should be maintained until service needs in Indian lands are reduced to the level of Social Service needs nationwide.

Recommendation for Social Service Programs

1. That all Social Security Act Funding mechanism provide for Tribes to receive funds directly from the Federal Government, so that Tribes can administer and provide social services for their own tribal members.

2. Because the amount of social service needs for Indian is great and that the kinds (definition) of services needs are undefined that the level of funding through the BIA be equivalent to the amount needed to fill the gaps in funding as available through the Social Security Act funding.

3. That BIA review needs for social services by Tribes residing in the PL-280 States. Because many times availability of services to Indians are on papers only, actual provision of services must be determined and funding through the BIA channel be explored for those tribes not currently receiving funds for service needs under the Snyder Act.

4. That contracts with Tribal Government units to administer and provide social services be a prime objectives for all social service funding source.

5. That coordinated funding from themany sources be promoted for the development of comprehensive programs without the label of "supplanting programs." This will require that Tribes be permitted to develop the kinds of services needed by utilizing all funds available through the Social Security Act, the Older American Act, the Indian Health Services Programs and the Bureau of Indian Affairs.

6. That provision be made so Tribes can develop legislation and standards of services which reflect Tribal uniqueness and needs.

OVERALL RECOMMENDATIONS

Congress: In support of Tribe's rights and wish to develop their own social services programs, Congress should amend all federal legislation which prevent Tribes from receiving federal funds directly. Many federally funded human service programs require that funds flow through "single state agencies" and because of jurisdictional conflicts between Tribes and States, this in most cases prevent Tribes from receiving the funds or service.

Federal Administering Agencies: Since politics between Federal Regional Offices and States prevent realistic implementation of any federal funding requirement that a strong Central Office be maintained so that if Federal Funding Requirements are to be implemented at all that this office will not only spell out guidelines but also compliance procedures. The results of non-compliance should clearly define whether (1) penalities will be imposed or (2) that technical assistance are provided together with (3) incentives for good behaviors. Up to now all regulations, guidelines have been on paper: even findings of non-compliances have been on papers ...no withholding of federal funds as penalities have resulted enough to impact compliance with federal requirements.

Tribal Governmental Units: That a National Tribal Governmental Organization be established so that this can (1) monitor funding sources; (2) call to surface need for national legislation to protect Tribe's development of social services and (3) provide technical assistance to Tribal Governmental Units in the areas of Indian uniqueness.

FCNL
FRIENDS COMMITTEE ON NATIONAL LEGISLATION
245 Second Street, N.E.
Washington, D.C. 20002
(202) 547-6000

22 April 1977

Senator James S. Abourezk, Chairman
American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
Second and D Streets, S.W.
Washington, D.C. 20515

Dear Senator Abourezk:

We wish to thank you for the opportunity to comment on the "tentative" Final Report of the American Indian Policy Review Commission. Although we have not had the time to read through the entire draft, we have read those parts of which we have some knowledge. We also have read other sections of which we know extremely little to see if they presented findings and recommendations in a comprehensible manner. We believe they do, even though there still remain some rough spots which, we are sure, will be corrected by final editing and proofreading.

In the first chapter, "Captives Within a Free Society," a few problems remain in condensing and combining the three authors' papers. Some points are unnecessarily, to us, repeated. There needs to be a consistency in the use of "Dawes Act" or "General Allotment Act." After mentioning both the first time, rely on one term. All in all, it is truly remarkable that three authors' styles and information have been so ably combined to flow as they do.

On page 1-51, line 5, the word "manned" is used. There seems elsewhere to be an attempt to use non-sexist language, and we suggest substituting here the word "staffed." The attempt to use both pronouns, "he/she," is absent from some pages and the generic pronoun, "he," is sometimes used. If time permits, one could change these spots by using "they."

In Chapter 8, "Social Services," pages 8-43 to 8-48 and 8-74 pertain to nutritional needs in Indian country. We suggest, time permitting, that the recent Senate Select Committee on Nutrition and Human Needs' report, "Recommendations for Improved Food Programs on Indian Reservations," April 1977, be mentioned in the body of the findings or as an annotation. Further, we sense strongly that the principles embodied in the Nolan (H.R. 5466) and Young (S. 1119) bills should be part of the recommendations on page 8-74. We understand that Indian people did have large input into drafting these identical bills. Most important are the recommendations that tribal administration be an option of the tribes, that technical assistance and funds be made available to the tribes to develop expertise in administration as well as to develop transportation and distribution systems, and that food stamps and/or commodities be an option of the tribes.

(continued)

88-440 O - 78 - 22

Should not some mention be made of the relationship of a proposed Federally funded national health care system (via insurance) and the existing health system for Indian peoples?

The two final comments we offer are on matters beyond our experience or time for analysis. First, we simply wonder if the status of Native Hawaiians can be addressed somewhere in the final report.

Secondly, we urge that consideration be taken now, in Chapter 2, "Legal Concepts in Indian Law," of the April 4, 1977, Supreme Court decision, Rosebud Sioux Tribe v. Kneip, Governor of South Dakota, et. al. We feel that some legislative recommendations are needed immediately to resolve this matter of allotment lands in a manner more satisfactory than the majority decision on this case. We know that we are joined in this concern by many in Indian country.

With strong appreciation of the work, politics, and love which went into the Commission's work, we remain

Sincerely yours,

Don Reeves

DR/skm

GALLUP-McKINLEY COUNTY PUBLIC SCHOOLS
GALLUP, NEW MEXICO 87301

JACK SWICEGOOD, Superintendent
OFFICE OF THE SUPERINTENDENT

709 SOUTH BOARDMAN DRIVE
P. O. BOX 1338
Tele. (505) 722-3891

April 6, 1977

The Honorable James Abourezk
Chairman, American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2d and D Streets, S.W.
Washington, D.C. 20515

Dear Senator Abourezk,

Thank you very much for your interest in the Gallup-McKinley County School District as evidenced by your solicitation of comments on the "tentative" Final Report of the American Indian Policy Review Commission.

I would first state that Congressman Meed's dissenting opinions take a great deal of courage. Even though his views are probably unpopular in this particular report, I personally think his opinions are cogent and should be heeded by those who purport to help the Indian.

One area of the report that demands emphasis concerns educational building needs. On the one hand the federal government has taken the position that state and local governments should make a special effort to educate the Indian, but on the other hand has provided a pittance for construction of educational facilities.

Another point I would like to mention is the use of P.L. 874 funds as they apply to reservation areas. The federal government states that the LEA is entitled to this additional funding to meet the unique educational needs of a given area. However, the federal government then turns around and allows a state like New Mexico to take 95% credit for these funds in their "equalization" finance formula.

Again, thanks for your interest and best wishes for the success of your commission.

Sincerely yours,

Jack Swicegood

Dr. Jack Swicegood
Superintendent

JS:ed

[redacted]

We recognize that you may not be able to thoroughly read and evaluate all parts of this Report within the time allowed for comment. However, in order to include your comments in our Final Report, this questionnaire must be completed and returned in the enclosed envelope postmarked no later than April 15, 1977. Our Final Report must be completed by May 15, 1977 for final Commission approval.

NAME Cecil L. HARVEY ADDRESS 500 12th ST

TRIBE/ORGANIZATION U.S. Dept of Agriculture S.W. Wash DC. 20250

A. PLEASE CIRCLE ONE TO INDICATE YOUR IDENTITY AS:

Tribal Chairman	Tribal Governing Body	Individual Indian
Member of Congress	Organizational Governing Board	
State Official	(Private Citizen)	

B. PLEASE EVALUATE THE SECTIONS BY CHECKING THE BLANK WHICH MOST NEARLY REPRESENTS YOUR OPINION.

	Excellent	Good	Poor
The report as a whole is	✓		
I. History		✓	
II. Legal Concepts	✓		
III. Conditions	✓		
IV. Federal-Indian Relations	✓		
V. Tribal Government	✓		
VI. Federal Administration		✓	
VII. Economic Development	✓		
VIII. Social Services	✓		
IX. Off-Reservation		✓	
X. Terminated Indians	✓		
XI. Non-Recognized Indians		✓	
XII. Special Problem Areas		✓	
XIII. General		✓	

C. [redacted] AND THE RECOMMENDATIONS AT THE END OF EACH SECTION, PLEASE ANSWER THE FOLLOWING QUESTIONS.

1) Which recommendations should be given priority status? Why? I believe those recommendations concerning the I H S service in our field (medicine) that can only get worse. In my opinion the I H S should get top priority

2) Are there recommendations with which you disagree? Why? No not really

3) Are there recommendations you would like to have added? Yes. It seems to me that the laws exist on the books over good ones. My recommendation would be to enforce these existing laws.

4) Do you feel the content of the report provides an accurate, useful picture of the situation? YES, MY ONLY complaint is that several reports report situations previously stated, only these could be edited out.

5) Do you have any additional comments? I had to read this rapidly, but I did have to slow down many times because

F. [redacted] AS INDICATED ON THE FOLLOWING PAGES FOR YOUR SPECIFIC RECOMMENDATIONS.

NAME _____ ADDRESS _____

TRIBE/ORGANIZATION _____ _____

RECOMMENDATION

Chapter ( ) Page ( ) Paragraph ( )

In the section beginning with the words "_____

_____," it is suggested that the following addition, deletion or change in wording be made, or the following concept expressed differently: _____

the report was filled with much information I was interested in mainly, land, water, rural education, contemporary conditions of Indians, and economic development in general.

Here at the U.S.D.A. there is an Indian Desk, and an Indian Task Force. What I will do is show my copy of this work to people in these organizations. I wish to thank you very much for this work and after several other people have seen it, it will become a functional asset for the U.S.D.A. History Office in which I work.

Yours Truly,
Emil L. Harvey
Historian U.S.D.A.

Trail's End Resort
Telephone 715/634-2429
ROUTE 2, BOX 338 • HAYWARD, WISCONSIN 54843

March 22, 1977

American Indian Policy Review Commission
House Office Bldg., Annex No. 2
2nd and "D" Streets, S.W.
Washington, D.C. 20515

Dear Sirs:

I am writing this letter to implore your help to protect my civil rights as a resort and campground owner on Lac Court O'Reilles which is located on the Chippewa Indian Reservation -- at least as far as they are concerned. This particular band of Chippewa Indians is attempting to enforce a 25-page Codes and Regulations governing all property owners on the reservation, including non-Indians. Yet we do not have any voice or voting rights in their tribal government.

My property (15 acres of land) was purchased from the Indians in the 1920's with a clear title and deed signed by the President of the United States. Does this not insure us of our civil rights to abide by the laws of the State of Wisconsin and the United States of America rather than a 25-page book of Indian rules and regulations?

PLEASE remember that we are citizens of these United States as well as the Indians on the reservations. Also, I feel that the purpose(s) of Indian Reservations is obsolete and these Indian people should be allowed to fend for themselves the same as the other races living in the United States.

I hope, therefore, that you will consider the RIGHTS of ALL AMERICANS when voting upon any future legislation or reform.

Thank you.

Sincerely yours,

Calvin Herman

Calvin Herman
TRAIL'S END RESORT

HAC

Housing Assistance Council Inc. • 1025 L Street N.W. • Suite 606 • Washington, D.C. 20036 • (202) 872-8540

March 31, 1977

The Honorable James Abourezk
United States Senate
1105 Dirksen Senate Office
Building
Washington, D. C. 20510

Dear Senator Abourezk:

The Housing Assistance Council recently received a copy of the tentative final report of the American Indian Policy Review Commission.

We have reviewed the report and found that the housing section was not included. In June, 1976, Robert Leatherman, after a substantial effort, submitted a report for the Commission titled "The Indian Housing Efforts in the United States." Our staff assisted with providing information and also contacted a number of Indian tribes.

The failure of the Commission to include the housing report seems to be an unfortunate omission which could be misinterpreted or a lack of interest in housing matters by Indians, we know that this is not the case.

We know that you, in the past, have shared our concern about the terrible housing problems faced by Indians. We urge, therefore, that you reconsider the exclusion of the housing section from the final report of the American Indian Policy Review Commission and to do what you can to see that it is included.

Sincerely yours,

Roland Chico
Indian Housing
Coordinator

RC/lh

EXECUTIVE CHAMBERS
HONOLULU

GEORGE R. ARIYOSHI
GOVERNOR

April 11, 1977

The Honorable James S. Abourezk
Chairman
American Indian Policy Review Commission
Congress of the United States
House Office Bldg. Annex No. 2
2D and D Streets, SW
Washington, D. C. 20515

Dear Senator Abourezk:

Thank you for sending me the American Indian Policy Review Commission's "tentative" Final Report.

The report is indeed a comprehensive and far-ranging one. It contains a wealth of information and many excellent recommendations. There is very little that we can add to the report.

As you know, the Indian population of Hawaii is quite small. In the spring of 1976, a 5-percent sample census of our state found 1,893 American Indians living outside of military barracks and institutions. They thus amounted to only 0.2 percent of the total.

Notwithstanding this small Indian population, we are deeply interested in the work of the Commission, and wish you all success in your work.

With warm personal regards, I remain,

Yours very truly,

George R. Ariyoshi

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

APR 12 1977

Honorable James S. Abourezk
Chairman, American Indian Policy
Review Commission
House Office Building, Annex No. 2
2nd and D Streets, S.W.
Washington, D.C. 20515

Dear Senator Abourezk:

This is in response to your request for me to comment on the Education section of the tentative Final Report of the American Indian Policy Review Commission.

I recommend the following clarifications and corrections:

Page 8-79 — In paragraph 3, "The primary agencies controlling Indian education are: (1) The Office of Education under H.E.W. which administers. . .", and the following, "the Indian Education Act of 1972, Title IV, Public Law 92-318," and "the Indian set-aside in the Education for all Handicapped Children Act (P.L. 94-142).

Pages 8-95 — In line 3, change "between" to "among."

Pages 8-104 — In paragraph 2, the figures of 140,000 and 100,000 are questionable unless the sources are indicated.

From the Indian Education Act, Public Law 92-318, the Office of Education provides supplemental funding for 302,000 Indian students in public schools in Part A above. In addition other Indian students are assisted through other legislative authorities such as Title I (P.L. 89-10), Handicapped legislation (P.L. 94-142) and Part B of the Indian Education Act.

Pages 8-104 — In paragraph 3, line 4, the term "JOM" should be deleted as this Johnson O'Malley program is administered by the BIA-Interior rather than USOE-HEW.

To this reviewer, the findings on pages 8-76 to 8-78 do not appear to be related to the recommendations on 8-120 to 8-130. The recommendations do not appear clear as to meaning and format.

On page 8-105, in enumerating USOE's specific involvement in Indian education, no mention is made of: (1) Public Law 94-142 (1975) which has set-aside funds for Indian handicapped students, and (2) Public Law 94-482 (1976) which has a set-aside fund for Indian adults from the Vocational Act of 1963, as amended.

Thank you for this opportunity to comment.

Sincerely yours,

S. Gabe Paxton, Jr., D.Ed.
Acting Deputy Commissioner
Office of Indian Education

The Houma Alliance, Inc.

RT. 6, BOX 88 B
HOUMA, LOUISIANA 70360

April 19, 1977

Senator James S. Abourezk, Chairman
American Indian Policy Review Commission
Congress of The United States
House Office Building Annex No. 2
2nd and D Streets S.W.
Washington, D. C. 20515

Dear Senator Abourezk:

We, the Native Americans, welcome any help we can get from the American Indian Policy Review Commission. We believe that you are heading in the right directions in adopting a national policy for all Indian people regardless of their status with the U. S. Government. At this point we had all but lost hope that anything would be done in behalf of Indians in this country. We firmly believe it comes at the right time in history when our President is concerned about human rights in other countries.

You speak of a workable solution within the frame work of government. If you look closely at your information you will see that Native Americans pay taxes, served in the Armed Forces, and died in defense of America. Yet we've lived seperated from the white way of American life. We believe there is a lot of work to be done in the fields of education, economic development, and health care for Indians. We as Americans have been denied all these things. We also believe that you will not find in any other minority group the true patriotism shown by the Native Americans.

Hunting and fishing rights for Native Americans is a way of life; we firmly believe that this is our natural birth right. We believe this to be a priority item to be re-evaluated.

In one way or another our land has been disposed of. We no longer own any amount of land in Louisiana. Through tax manipulation the whites have found ways to acquire Indian lands. On March [illegible] 1849 Congress saw fit to award to Louisiana lands belonging to the Houma tribe. The Houma tribe in Louisiana has been left landless. In the wake of white settlement the Houma tribe was cheated out of these lands.

We would like now to quote Chief Joseph of the Nez Perce Tribe on how Indian land were acquired.

Page 2 - Senator Abourezk

'Suppose a white man should come to me and say "Joseph, I like your horses, and I want to buy them." I say to him, "No, my horses suit me, I will not sell them." Then he goes to my neighbor, and say to him: "Joseph has some good horses. I want to buy them, but he refuses to sell." My neighbor answers, "Pay me the money, and I will sell you Joseph's horses." The white man returns to me and says, "Joseph, I have bought your horses, and you must let me have them." If we sold our lands to the government, this is the way they were bought.'

We believe that Congress at this time should be able to solve the problems which it faces with Indian tribes and nations. It is hopeful that this issue will not be left alone to be resolve by another generation.

Sincerely,

Howard J. Dion

Howard J. Dion
Chairman
The Houma Alliance, Inc.

HJD/rd

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
REGIONAL OFFICE
EXECUTIVE TOWER - 1405 CURTIS STREET
DENVER, COLORADO 80202

REGION VIII

May 4, 1977

IN REPLY REFER TO:
8OF

Honorable James S. Abourezk
Chairman, American Indian
Policy Review Commission
United States Senate
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for the copy of the Commission's "Tentative Final Report" and for the opportunity to comment on its contents.

The report obviously involved a tremendous effort on the part of the Commission to develop a definitive essay on the status of Indian policies in this country. It contains excellent material, particularly those chapters on trust land and tribal government. We were, however, disappointed that housing received scant attention. Only three pages out of the total report mentioned housing to any degree, and then only in very general terms.

The unfortunate part of this omission is that housing is one of the basic needs of Indian people and therefore deserves greater attention. Housing incorporates or transcends many of the subjects addressed in greater detail in the report. Housing construction provides opportunities for employment, economic development and Indian entrepreneurship. Tribal sovereignty is an important part of the Indian housing effort. The status of trust land, on which most Indian housing is constructed, poses unique and unusual problems that must be resolved. A great many subjects in the report are touched in some way or other by the various housing programs, particularly those administered by the Department of Housing and Urban Development.

While the Department has made giant strides in meeting the housing needs of Indian families, there is general agreement

that a great deal of work remains to be done. Therefore, that the Commission saw fit to offer only a solitary recommendation on this subject, with which we agree, (see page 8-73), offers little assistance to the Indian housing effort. In view of the comprehensive housing report provided to the Commission, a more extensive review of Indian housing should have been included in the report.

Sincerely,

Gerald J. Hannon
Acting Regional Administrator

INDIAN CLAIMS COMMISSION
RUSSELL BUILDING, 9TH FLOOR
1730 K STREET NW.
WASHINGTON, D.C. 20006

April 20, 1977

Honorable James Abourezk,
United States Senate
Chairman, American Indian Policy
Review Commission
Washington, D. C. 20510

Dear Senator Abourezk:

I thought the report of Task Force No. 9 contained a key to the vexing question of Treaty Indians vs. Non-treaty Indians, etc., and attached is a copy of my letter to "Chuck" expressing my personal sentiments about it.

With kindest regards and best wishes, I remain,

Sincerely,

Brantley Blue

Brantley Blue
Commissioner

Enclosure

BB:ild

INDIAN CLAIMS COMMISSION
ROGGLL BUILDING, 5TH FLOOR
1730 K STREET NW.
WASHINGTON, D.C. 20006

April 20, 1977

Mr. Charles Trimble
Executive Director
National Congress of American
Indians
1430 K Street, N. W., Suite 700
Washington, D. C. 20005

Dear Chuck:

It has been awhile since we talked. In the meantime, I have personally agonized over the existing cleavages between Reservation, Non-Reservation, Treaty and Non-Treaty Indian groups. It has been especially troubling to me for years now, since the "Lumbees" have been cast in the role as being the symbolic group that exemplifies all of these cleavages. There is no way that the cleavages will cause me to have animosity toward the reservation, treaty, groups. There is no way for me to fail to support the inclusion of non-reservation, non-treaty groups in Federal concern. However, it saddens me deeply to see such intense efforts being made to oppose and exclude non-reservation and non-treaty groups from all Federal programs.

Chuck, I think I gleaned an answer to this impasse upon reading the task force report submitted by the legal task force of the American Indian Policy Review Commission. In effect, it said, "non-reservation, non-treaty Indians (Lumbees specifically being pointed out) should share in Federal programs, but not at the expense of Reservation . . . treaty Indians". The task force made clear and I agree, that the sharing of the one group should in no way diminish the funds of the other group. Isn't this a concept and a philosophy that all Indian groups could and should unanimously rally around and support? I honestly believe so, I fervently hope so!

This principle could unite Indians. How desperately that is needed. How much your leadership could unite all Indians during this critical period.

Chuck, I know that you will give these thoughts earnest and prayerful consideration as I have done. Our People . . . all of them . . . are the beneficiaries! Thank you for letting me share some of my thinking with you.

93-440 O - 78 - 33

With kindest regards and best wishes, I remain,

Very truly yours,

Brantley

Brantley Blue
Commissioner

P. S. Chuck, Indians are being challenged today, from all sides; there has been nothing like this in many years. It is a time for togetherness in order for the Indians to stand just a fair chance of receiving just, fair and honest treatment at the hands of a just America. Permanent and vital decisions are about to be made by Congress. How crucial!

Copy to:
Peter S. Taylor, Chairman,
Legal Task Force No. 9, AIPRC;
Hon. James Abourezk,
United States Senate,
Chairman, American Indian Policy
Review Commission;
Hon. Lloyd Meeds, United States
House of Representatives,
Chairman, American Indian Policy
Review Commission;
Adolph Dial, Commissioner, American Indian
Policy Review Commission;
Louis R. Bruce, Commissioner,
American Indian (Urban/Nonfederally Recognized);
Ernie Stevens, Executive Director,
American Indian Policy Review Commission;
Mel Tonasket, President,
National Congress of American Indians;
Wendell Chino, President, National
Tribal Chairmen's Association.

BB:ild

REACTION TO THE SUMMARY OF EDUCATION FINDINGS AND RECOMMENDATIONS OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

Compiled at the:

18th Annual Indian Education Conference
Center for Indian Education
Arizona State University
Tempe, Arizona

Submitted by:

Dr. John W. Tippeconnic, Director
Center for Indian Education

The 18th Annual Indian Education Conference, sponsored by the Center for Indian Education, Arizona State University, was held in Tempe, Arizona on April 13-15, 1977. Approximately 500 individuals were in attendance. The major purpose of the conference was to provide groups (i.e., tribes, Indian organizations) and individuals an opportunity to react to the educational findings and recommendations of the American Indian Policy Review Commission (AIPRC).

The rationale for the conference was based on the fact that the educational findings and recommendations of AIPRC have been disseminated to a select few. Thus, the conference program was developed (Appendix A), whereby every individual and group in attendance would be informed of the educational findings, discuss them, then react.

REACTION DESIGN

Presentations:

1. AIPRC History, Functions, and Activities
2. Educational Findings and Recommendations
3. Expected Influence of the Report

Workshops: To further discuss and react to the findings and recommendations. Topics included:

1. The Delivery System--BIA
2. Higher Education
3. United States Office of Education
4. State Role in Indian Education
5. Tribal Control

Reaction:

1. Workshops
2. Groups (Tribes, Organizations)
3. Individuals

AIPRC: Submitted to AIPRC for inclusion in the final report

PROCEDURES

Mr. Ernest Stevens, past Director, AIPRC, Mr. Ray Goetting, AIPRC Consultant, and Mr. Charles Peone, AIPRC Consultant, orally presented the educational findings. In addition, the educational summary was made available to all conference participants.

A list of ten (10) General Findings was developed for conference participants to react to in workshop sessions. (Appendix B). In addition, specific findings in higher education, BIA, tribal control, state role in Indian Education, and the U.S. Office of Education were developed. (Appendix C). Open-ended responses were also solicited. An Individual Reaction Form was provided to record reaction. (Appendix D).

Individuals and groups were also encouraged to react outside the workshop format. (Appendix E).

FREQUENCY RESPONSE TO THE GENERAL FINDINGS OF AIPRC

GENERAL FINDINGS OF AMERICAN INDIAN POLICY REVIEW COMMISSION

1. Shift all Federal education programs from OE and BIA to one administrative agency.

2. Shift control of Federal funds for Indian education from state and local governments to tribal governments.

3. Establish training programs for Indian teachers, administrators, counselors and tribal advisors on education.

4. The consolidated Indian agency would be required to design, in conjunction with Indian people, education programs it establishes to respond to the needs of Indian people.

5. This agency and programs would require more efficient administration and an accurate funding mechanism to assure that target monies reached the tribes.

6. Congress will enact legislation that would aid tribal governments in assuming the responsibility for control of education in accordance with their desires.

7. Amendments to P.L. 874 and 815 such that: (1) the dollars directed to aid schools educating Indian students be funneled through a tribal monitoring system, then to the school, (2) a set-aside provision is made to cover costs of tribal administration.

8. Amendments to P.L. 638 such that (1) a duly elected Board of Regents may be recognized as a unit representing tribes and tribal opinion to contract for and administer post-secondary schools with a multi-tribal population; (2) in case of multi-tribal elementary and secondary schools, a duly elected Board of Regents indluding at least one representative from each tribe, be recognized as a unit representing tribes and tribal opinion to contract for and administer those schools.

9. Amendments to P.L. 638 and JOM such that: (1) any dollars contracted for the education of Indian children through P.L. 638 and JOM would pass through tribal monitoring system (2) in utilizing this contract or monitoring powering with P.L. 638 or JOM a tribe may decide the extent to which it wishes to control the educational system affecting its children. This decision runs the gamut from total tribal ownership and control to utilization of the tribal government only as a monitoring system, (3) if the tribes' option to set up an organizational unit to monitor funds, a set-aside provision should be made available to cover costs of tribal administration.

10. Amendments to all Indian education legislation such that: (1) the state or local government not in compliance with agreements and contracts for Indian education can be sued by the tribe in U.S. District Court or in a state court of general jurisdiction, (2) the court may grant the plaintiff a temporary restraining order, preliminary or permanent injunction or other order including suspension, termination or repayment of funds or placing any further payments in escrow pending the outcome of the litigation.

	STRONGLY AGREE	AGREE	UNDECIDED	DISAGREE	STRONGLY DISAGREE
1.	23	22	23	8	6
2.	30	19	11	17	4
3.	51	24	2	6	0
4.	35	34	12	1	0
5.	47	30	9	0	1
6.	19	30	11	3	4
7.	19	31	24	2	2
8.	11	26	23	9	7
9.	21	29	14	13	0
10.	28	20	21	2	14

--FINDINGS--

OPEN REACTION TO THE TEN GENERAL FINDINGS

FINDING:

1. Shift all Federal education programs from OE and BIA to one administrative agency.

REACTION:

1. The transfer of programs to a new agency should be accomplished if Indian people and their tribal governing bodies approve and design transfer process.

2. (a) Agree to one agency since there would be consistency in the program. Would like to see an educational movement with more emphasis placed on the education of children.

   (b) What guarantee is made, if a new agency is established, that the agency will see more input from parents in their concepts of goals and direction of education.

3. It needs to be defined who will be eligible for services and how the agency will be implemented. If properly managed, it would be a good idea.

4. Shift some Federal education programs from OE and BIA to one administrative agency.

5. Shift all Federal education programs and funds to one administrative agency.

6. Shift all Federal education programs and funds allocations from OE and BIA to one administrative agency.

FINDING:

2. Shift control of Federal funds for Indian education from state and local governments to tribal governments.

REACTION:

1. Tribal governments may desire to participate in the shift of control on an optional-ability basis. Some tribes may not have the skilled manpower to assume total control and therefore the transition will be affected by this.

   Urban Indians may have to group themselves into PAC-type groups; and since an accurate count is not available, reservation tribes may have to assist in the identification and even the servicing of those whom they recognize as tribal members.

2. What about Indians who are not under tribal government?

   a. How will this recommendation affect those Indians living in the urban area educational system?

   b. How would urban Indians apply for education funding?

   c. Is the recommendation only for tribal governments/organizations?

FINDING:

3. Establish training programs for Indian teachers, administrators, counselors and tribal advisors on education.

REACTION:

1. Establish long-range training programs for Indian education personnel in areas of: (1) teaching, (2) school administration, counseling, (3) tribal advising. Also training programs should be developed in areas of: tribal accounting, economics, financing, management and other technical areas needed for tribal control.

2. Personnel involved in the education and training of Indian children should be specially trained. Particularly in viewing their personal concepts of Indian children, learning of the people to whom they are to serve, their customs, traditions and religion. Be more aware and respectful of their way of life.

3. Establish training programs for Indian tribes, administrators, counselors and tribal advisors. Programs that lead toward a degree or certification.

FINDING:

4. The consolidated Indian agency would be required to design, in conjunction with Indian people, education programs it establishes to respond to the needs of Indian people.

REACTION:

1. The Indian people in conjunction with a consolidated Indian agency will design education programs to respond to the needs of the people.

2. Agree; but need to involve many educational designs would greatly depend on the tribal structure and needs.

   a. Some felt the sentence should state, "and consult" rather than the wording "in conjunction."

FINDING:

5. This agency and programs would require more efficient administration and an accurate funding mechanism to assure that target monies reached the tribes.

REACTION:

1. The Indian people, the agency, and the programs will require more efficient administration and accurate funding mechanisms to assure that target monies reach the tribes and the students.

2. They must have other targets as well.

3. This agency and programs would require more efficient administrative distribution and an accurate funding mechanism to assume that target monies reached the tribe.

FINDING:

6. Congress will enact legislation that would aid tribal governments in assuming the responsibility for control of education in accordance with their desires.

REACTION:

1. Congress will enact legislation that would aid tribal governments in assuming the responsibility for control of education in accordance with the desires of tribal governments. In off-reservation areas with no tribal jurisdiction, federal funds must be administered by an Indian parent committee with full policy and program control.

2. Meaning is unclear--if emphasis is on aid, will agree.

3. Question is not clear, no explanation given.

4. Congress will enact legislation that would aid tribal governments in assuming the responsibility for control of education in accordance with needs.

FINDING:

7. Amendments to P.L. 874 and 815 such that: (1) the dollars directed to aid schools educating Indian students be funneled through a tribal monitoring system, than to the school, (2) a set-aside provision is made to cover costs of tribal administration.

REACTION:

1. Amend by addition the following: "We recommend that both laws be fully funded to meet the urgent needs.

2. The laws do not pertain just to Indians (set-asides?)

FINDING:

8. Amendments to P.L. 638 such that (1) a duly elected Board of Regents may be recognized as a unit representing tribes and tribal opinion to contract for and administer post-secondary schools with a multi-tribal population; (2) in case of multi-tribal elementary and secondary schools, a duly elected Board of Regents including at least one representative from each tribe, be recognized as a unit representing tribes and tribal opinion to contract for and administer those schools.

REACTION:

1. Amend by addition of: "There must be assurance that all tribes involved are duly ratified and involved in all transactions."

FINDING:

9. Amendments to P.L. 638 and JOM such that: (1) any dollars contracted for the education of Indian children through P.L. 638 and JOM would pass through tribal monitoring system (2) in utilizing this contract or monitoring powering with P.L. 638 or JOM a tribe may decide the extent to which it wishes to control the educational system affecting its children. This decision runs the gamut from total tribal ownership and control to utilization of the tribal government only as a monitoring system, (3) if the tribes' option to set up an organizational unit to monitor funds, a set-aside provision should be made available to cover costs of tribal administration.

REACTION:

1. That's the way it is now--Why is an amendment necessary?

FINDING:

10. Amendments to all Indian education legislation such that: (1) the state or local government not in compliance with agreements and contracts for Indian education can be sued by the tribe in U.S. District Court or in a state court of general jurisdiction, (2) the court may grant the plaintiff a temporary restraining order, preliminary or permanent injunction or other order including suspension, termination or repayment of funds or placing any further payments in escrow pending the outcome of the litigation.

REACTION:

1. It's already that way--why the amendment?

REACTION TO FIVE SPECIFIC AREAS

I. The Delivery System--BIA

FINDINGS:

1. Congress will initiate legislation for the funding and administration under a consolidated Indian agency for programs:

   A. To study and establish standards for Indian education and develop an accreditation system for Indian schools.

   B. To train non-Indians who teach and work with Indian children as an interim measure until there are enough Indian educators.

   C. To educate and prepare the tribes to organize and operate their own educational systems.

   D. To subsidize a long-range effort to train and certify Indian educators for Indian schools.

   E. To certify Indian programs for curriculum development and library development.

   F. To provide for a professional clearinghouse to keep education information, i.e., teacher availability, new curricula, and special information flowing from school to school and tribe to tribe.

   G. To give professional Indian educators the opportunity to give regular input on new educationalmethods and resources to the tribes, the tribes in turn can utilize these suggestions if they choose.

11. Congress shall provide, under the umbrella of the consolidated Indian agency appropriate legislation for the administration and funding of improved off-reservation boarding schools.

12. Funding would be used to define the goals and objectives for each O.R.B.S. Create and academic emphais that fits the particular goals of each school.
    1. A vocational/technical school
    2. A school for the gifted with emphasis on academic training.
    3. A school for special learning difficulties (Basic skills emphasized)

13. Juvenile corrections should be the responsibility of the tribe(s) and not the O.R.B.S.

14. Hire sufficient diagnostic staff, a program and development specialist, and curriculum development that is responsive to student needs both psychologically and academically for each O.R.B.S.

15. Choose teaching and guidance personnel on the basis of ability to do the job rather than rank in civil service.

16. Give parents and community the opportunity to contribute ideas and participate in school procedure.

17. Give the school advisory boards real decision power.

18. Set up funding structures to separate O.R.B.S. from other BIA funded schools.

19. Standardize accounting procedures and fiscal reports of all O.R.B.S.

20. Remove post-secondary schools run by the BIA from O.R.B.S. states so they have the option to control: Staff, budget, programs, enrollment, and student body.

21. Organize an elective process for advisory boards and boards of regents for all BIA schools (Haskell, SIPI, IAIA)

REACTION:

Participants strongly agreed with all the findings with the following comments:

a. Number 14. The question arose, "Would it be practical to hire all of the mentioned personnel, and would they be all Indians?"

b. Number 17. What training would the advisory board receive to prepare them to exercise wise authorative power.

ADDITIONAL COMMENTS:

1. Organize an elective process for advisory boards and boards of regents for all BIA schools, including post-secondary schools.

2. Funding structures and accountability procedures should be standardized for fast and efficient accounting and for educational research purposes. Schools should follow the same elective process for advisory boards, and board of regents. Schools should work together on meaningful research, for example, student dropouts, new curriculum, and follow up studies on students who attend institutions of higher learning.

3. Many times people in the educational field lose sight of their original objectives and begin to conceptualize, "What can I get out of the system for self-gain?" Too many times the person tends to look for personal gains rather than to view what is the best way to reach the Indian youth.

II. Higher Education

11. Organize an elective process for advisory boards and boards of regents for all BIA schools (Haskell, IAIA, SIPI).

12. Congress, through specific legislation will provide funding for scholarships in three academic areas:

    1. Vocational
    2. Liberal arts
    3. Graduate level.

13. Graduate level scholarship should take into account extra expenses such as books, lab fees and the greater possibility graduate students will be married.

14. Scholarship funding is directed through both Indian organizations and tribes which would distribute the money to eligible Indian students.

15. Each student who meets the requirements of Section 411 (A) (1) of the Higher Education Act of 1965 shall be entitled to a grant in an amount computed under subsection (a) of subsection (1).

16. Congress must enact legislation which would, under the consolidated Indian agency, carry out a program for funding and administration of Indian post-secondary schools.

17. Legislation such to include funds for more Indian owned and operated colleges such that higher education is available to all Indians who desire it.

18. Legislation such to include funds to establish a number of institutions of higher learning for interpreting and sustaining the culture, languages and traditions of Indian people.

19. Legislation such to include funds provided by the Federal government to any institution of higher learning that is educating Indian students (similar to JOM).

20. Accreditation for Indian post-secondary institutions should be provided by an Indian designed and organized board.

	STRONGLY AGREE	AGREE	UNDECIDED	DISAGREE	STRONGLY DISAGREE
11.	4	11	7	2	1
12.	10	11	1	3	1
13.	10	11	4	1	0
14.	6	3	3	3	1
15.	5	11	9	1	0
16.	6	12	5	2	1
17.	10	11	1	4	0
18.	12	8	5	1	0
19.	4	6	6	4	6
20.	6	10	3	4	1

93-440 O - 78 - 24

HIGHER EDUCATION/ADDITIONAL REACTION

As a student enrolled under Fine Arts at Arizona State University, I strongly agree to granting money to students who wish to enter a profession not usually funded by tribal or government scholarships.

III. UNITED STATES OFFICE OF EDUCATION

ADDITIONAL COMMENTS:

1. Concern for the education of children in urban areas.

2. Explicit definitions in funding controls.

V. Tribal Control

11. Tribal control at minimum could entail utilizing the tribal government as a monitoring system for federal funds targeted for Indian education. Dollars targeted specifically for Indian children, for example, JOM, would not only pass through the tribe but the tribe could also direct how those dollars were to be spent.

12. Where a local school system rejects tribally determined educational priorities for JOM and other target funds, those funds should be available to the tribe for use in a program of its own.

13. In recognition that one year's funding may be an insufficient base to establish an independent program, there should be provision to allow for carryover of previous year's funding.

14. To facilitate the move toward Indian control of Indian education, trained specialists will be needed. Programs for Indian people to direct Indian control should be established.

15. Monies should be provided for programs to educate and prepare tribes to organize and operate their own education (to the extent they wish).

16. Monies should be provided to subsidize a long-range effort to train and certify Indian educators for Indian schools.

17. Monies should be provided to establish training programs for teachers of Indian students.

18. Monies should be provided to subsidize programs for curriculum development and library development for Indian schools.

19. Monies should be provided to study and establish an accreditation system for Indian schools.

20. Monies should be provided to study and establish standards for Indian schools.

	STRONGLY AGREE	AGREE	UNDECIDED	DISAGREE	STRONGLY DISAGREE
11.	9	7	3	0	1
12.	6	7	3	1	1
13.	7	11	1	0	0
14.	9	12	0	0	0
15.	8	9	3	0	0
16.	9	9	1	0	0
17.	10	7	2	1	0
18.	10	9	1	0	0
19.	6	12	1	0	0
20.	6	13	1	0	0

TRIBAL CONTROL

ADDITIONAL COMMENTS:

1. Money should be provided for basic school operations.

2. Accounting systems should be set up for the tribes to account for the monies they receive.

3. Congress pass a law that the Federal government pass in legislation that Congress will continue to fund programs for Indian tribes if they contract under P.L. 93-638.

REACTION BY GROUPS AND INDIVIDUALS

Ms. Ida L. Jose, Chairperson
Papago Education Committee

Ms. Jose represented the Papago Education Committee and the following comments represent the opinion of her committee after their participation in Workshop #5, Tribal Control.

The issue of Tribal Control is of main concern on the Papago Reservation. The problem is as follows:

The Papago Education Committee is authorized by a Tribal Resolution to be responsible and accountable for Tribal Education contracts. There are two (2) main reasons why this is impossible to do;

1. The Bureau of Indian Affairs (Procurement Branch) has their own "unwritten" rules that cannot be abided by anyone, which also conflict with tribal contract statements.

2. The state does not recognize Tribal Sovereignty.

Our recommendations are:

1. That PL 93-638 be amended to <u>insure</u> Tribal Control of all contracted programs.

2. That tribes be given full authority and responsibility to determine their own direction and policy, <u>without interference</u> of the state and Federal bureaucracies.

3. That Congress assure the Tribes of adequate funding for their determined needs.

THE PAPAGO EDUCATION COMMITTEE

Ida L. Jose, Chairperson
Manuel Osequeda
Tony Chico
Willard Juan
Archie Hendrick, Sr.
Sr. Kateri Cooper

Ms. Lena Begay
Central Curriculum Coordinator
Navajo Economic Opportunity Childhood Development Program
Ft. Defiance, Arizona

The main questions which should be asked regarding the establishment of the AIPRC are:

Who appoints the Commission?
Why can't we be involved right from the first instead of at the conclusion?
What impact will our recommendations have on the Commission's Report to Congress?

The general findings were very vague, and they need to be clarified.

Pertaining to General Finding #1, Shift all Federal education programs from OE and BIA to one administrative agency; what one administrative agency are these programs to be shifted under? Who will be involved in the shifting of these programs and who will have the control?

Pertaining to Finding #2, Shift control of Federal funds for Indian education from state and local governments to tribal governments; is this to be done with approval of tribal people or individual groups?

As to Finding #3, Establish training programs for Indian teachers, administrators, counselors and tribal advisors on education; who would establish these training programs and where will the monies come from? We must have assurances that the training programs are not funded for one or two years and then discontinued. What we need instead of what we have gotten in the past are long-range training programs to insure that the benefits of the programs will be given the Indian peoples.

On Finding #4, The consolidated Indian agency would be required to design, in conjunction with Indian people, education programs it establishes to respond to the needs of Indian people; what is meant by "consolidated" Indian agency? Is this in reference to the superagency in General Finding #1?

As to Finding #5, This agency and programs would require more efficient administration and an accurate funding mechanism to assure that target monies reach the tribes; this funding mechanism needs to be controlled according to the needs of the tribes or the individual groups of people who are requesting the funds.

Findings 6-10 are already in existence it appears but what we need is a reaffirmation of these findings. Finding #10, such a law is already in existence but we need to work with the law now and we need to have it enforced.

Of definite concern is the need to define "Indian."

We are making our recommendations, but we need the support of the American Indian Policy Review Commission and of all the Indian people.

Mr. Virgil Free, Higher Education Director
Johnson O'Malley
Winnebago, Nebraska

The area which the Task Force of the Commission did not seem to get into was funding accountability. We must be kept informed of the amount of money that is going out and we need to be kept informed of where it is going. We must abide by regulations and guidelines but OE and BIA do no accounting to us. We must demand that OE and BIA report nationally to the tribes at the national and the regional levels. We ask AIPRC to demand that accounting also be done at the area and agency levels.

Mr. Albert Sinquah, Director
Education, Hopi Tribe
Oraibi, Arizona

My main concern is that there is no existing organization or group of people responsible for seeing to it that the government is meeting the requirements and guidelines of the programs. There needs to be an office or a Concerns Bureau that we can contact for interpretation of the existing laws. The interpretation of the policies vary at the local, area, regional, and national levels. It is difficult to know or see what we are doing because of this. The AIPRC should recommend the establishing of an organization strictly for the interpretation of the laws.

Ms. Cynthia Cardona
Osborn School District
Phoenix, Arizona

Workshop #3, "United States Office of Education."

My main concerns center around the amount of confusion, misunderstanding, and learning process involved with the various programs.

It seems that information is not received with sufficient time to study the literature. Procedures are sometimes somewhat intimidating. In many instances one is unclear as to how to utilize funding in the proper "legal" way.

The Public Laws and Acts are unclear to the majority of the participants here at this session and to the participants within the different programs.

How is this and other legislation to affect the urban Indian? There is too much confusion in this area as it appears the urban Indian is not being recognized.

We need to see statistics concerning the operations of the programs. How is the money appropriated and how is it being utilized? How much of that money actually trickles down to students?

Ms. Carol Kirk
Arizona State University Student

The following comments were made by Ms. Kirk after her participation in Workshop #4, "State Role In Indian Education."

Concerning General Finding #1, Shift all Federal education programs from OE and BIA to one administrative agency, the members of the workshop may have been indecisive or negative because of two main concerns.

1. There was not enough information as to how OE and BIA were to be unified. Perhaps the intention of the members was to either agree or disagree and then make comments as to how either decision would be implemented.

2. As pertaining to nearly all the items the participants tended to disagree with the printed statements as the participants all recognized tribal authority but did not specifically recognize urban Indian groups.

The main concern with Items 7-10 was that these or at least some of these General Findings were identified by participants to already be existing policy. Negative or indecisive comments were made because it was noted that the policies were already in effect.

My concern: Was the purpose of the questionnaire a reaffirmation or a negation of general policies facing tribal sovereignty or was it intended to address for specific changes in existing policy? The confusion arose because it was unclear as whether we were disagreeing with the conditions of the existing policy or recommending something new.

SUMMARY

The reaction presented above represents that of individuals and groups compiled in the procedure described. It does not necessarily represent a consensus of the conference. No effort was made to interpret any of the data or change any of the comments. It is raw data compiled within limitations of a three-day conference.

However, the reaction does represent a sincere effort on the part of those responding to be heard. We trust that the input will be valuable to the American Indian Policy Review Commission and that it will be a part of the final report submitted to Congress.

APPENDIX A

18th ANNUAL INDIAN EDUCATION CONFERENCE PROGRAM

18th ANNUAL INDIAN EDUCATION CONFERENCE
APRIL 13,14, & 15, 1977

MEMORIAL UNION BUILDING
Arizona State University
Tempe, Arizona

THEME:

"AMERICAN INDIAN POLICY REVIEW COMMISSION"--
SUMMARY OF EDUCATION FINDINGS AND RECOMMENDATIONS

SPONSOR:

CENTER FOR INDIAN EDUCATION
ARIZONA STATE UNIVERSITY
TEMPE, ARIZONA

DIRECTORS

DR. JOHN W. TIPPECONNIC, DIRECTOR, CENTER FOR INDIAN EDUCATION
MR. GEORGE A. GILL, ASSISTANT PROFESSOR OF EDUCATION

PROGRAM

Wednesday Afternoon Session, April 13, 1977

12:00 NOON		Registration, Memorial Union Building Arizona Room (Continuous throughout Conference)
1:00 - 5:00 p.m.	Workshop #1	NIEA Project Media, National Indian Education Association; Minneapolis, Minnesota Ms. Rebecca Murray, Moderator Cochise Room East, Memorial Union
1:00 - 2:00 p.m.	Workshop #2	Reapportionment & Census - State of Arizona Legislature; Phoenix, Arizona Representative Benjamin Hanley, Moderator Cochise Room West, Memorial Union
1:00 - 2:00 p.m.	Workshop #3	Bilingual Education, Division of Bilingual Education, State Department of Education; Phoenix, Arizona Ms. Gay Lawrence, Moderator Arizona Room, Memorial Union
2:00 - 3:15 p.m.	Workshop #4	Native American Materials Development Center Albuquerque, New Mexico Mr. Cam Pfeiffer, Moderator Arizona Room, Memorial Union
2:00 - 3:15 p.m.	Workshop #5	Indian Education Training, Inc. Albuquerque, New Mexico Mr. Fred Garcia, Moderator Ms. Laura Tillman, Moderator Cochise Room West, Memorial Union
3:15 - 3:30 p.m.	BREAK	
3:30 - 5:00 p.m.	Workshop #6 (Repeat)	Native American Materials Development Center Albuquerque, New Mexico Mr. Cam Pfeiffer, Moderator Arizona Room, Memorial Union
3:30 - 5:00 p.m.	Workshop #7 (Repeat)	Indian Education Training, Inc. Albuquerque, New Mexico Mr. Fred Garcia, Moderator Ms. Laura Tillman, Moderator Cochise Room West, Memorial Union

Thursday Morning Session, April 14, 1977

7:30 a.m.	Registration, Memorial Union Building
8:30 - 10:00 a.m.	Presiding: Dr. John W. Tippeconnic, Director Center for Indian Education Arizona State University Tempe, Arizona
	Welcome: Dr. Morr'.on F. Warren, Director I.D. Payne Laboratory Arizona State University Tempe, Arizona
	Keynote Address: Mr. Ernest L. Stevens, Director American Indian Policy Review Commission Washington, D.C. "Introduction To The AIPRC"
	Conference Procedures: Mr. George A. Gill Assistant Professor of Education Arizona State University Tempe, Arizona
	ANNOUNCEMENTS
10:00 - 10:15 a.m.	BREAK - Reconvene in General Session for Education Summary and Findings
10:15 - 11:30 a.m.	Mr. Raymond C. Goetting, AIPRC Member and Consultant Laguna, New Mexico "Findings and Recommendations - Education" American Indian Policy Review Commission
	Mr. Charles Peone, AIPRC Member and Consultant University of Arizona Tucson, Arizona "Findings and Recommendations - Education" American Indian Policy Review Commission
11:30 - 1:00 p.m.	LUNCH BREAK - Reconvene in workshop of choice at 1:00 p.m.

Thursday Afternoon Session, April 14, 1977

1:00 - 3:00 p.m. WORKSHOP SESSIONS

Workshop #1 "The Delivery System - BIA"
Mr. Garrison Tahmahkera, Moderator
Mr. Ray Goetting, Resource Person
Cochise Room East

Administering Educational Programs, Funding and Policy, Educational Facilities, Curriculum, Student and School Statistics.

Workshop #2 "Higher Education"
Mr. Ron Houston, Moderator
Mr. Ray Goetting, Resource Person
Cochise Room West

Administering Educational Programs, Funding and Policy, Educational Facilities, Curriculum, Student and School Statistics.

Workshop #3 "United States Office of Education"
Mr. Guy Archambeau, Moderator
Mr. Charles Peone, Resource Person
Coconino Room

Administering Educational Programs, Funding and Policy, Educational Facilities, Curriculum, Student and School Statistics.

Workshop #4 "State Role In Indian Education"
Dr. Larry Stout, Moderator
Mr. Ernest Stevens, Resource Person
Arizona Room

Administering Educational Programs, Funding and Policy, Educational Facilities, Curriculum, Student and School Statistics.

Workshop #5 "Tribal Control"
Mr. Jack Gregory, Moderator
Mr. Ernest Stevens, Resource Person
Pinal Room

Administering Educational Programs, Funding and Policy, Educational Facilities, Curriculum, Student and School Statistics.

3:00 - 3:15 p.m. BREAK

3:15 - 5:00 p.m. Workshops #1, 2, 3, 4, and 5 reconvene in same rooms for finalization of reaction reports to findings.

5:00 p.m. RECESS - Reconvene in Arizona Room for final General Session, Friday, 8:30 a.m., April 15, 1977.

93-440 O - 78 - 25

Friday Morning Session, April 15, 1977

8:30 a.m. General Session
Arizona Room

Presentation of conference workshop reaction position papers and recommendations to be submitted to American Indian Policy Review Commission, Washington, D.C.

Presiding: Mr. Emerson Horace, Director
Bilingual Education
Sacaton Public Schools
Sacaton, Arizona

Mr. Guy Archambeau
Tuba City Public Schools
Tuba City, Arizona

10:00 - 10:15 a.m. BREAK

10:15 a.m. Reconvene in Arizona Room for continuation of presentations.

12:00 Noon ADJOURNMENT

APPENDIX B

GENERAL FINDINGS OF AMERICAN INDIAN POLICY REVIEW COMMISSION

ASU, CENTER FOR INDIAN EDUCATION

GENERAL FINDINGS OF AMERICAN INDIAN POLICY REVIEW COMMISSION

1. Shift all Federal education programs from OE and BIA to one administrative agency.

2. Shift control of Federal funds for Indian education from state and local governments to tribal governments.

3. Establish training programs for Indian teachers, administrators, counselors and tribal advisors on education.

4. The consolidated Indian agency would be required to design, in conjunction with Indian people, education programs it establishes to respond to the needs of Indian people.

5. This agency and programs would require more efficient administration and an accurate funding mechanism to assure that target monies reached the tribes.

6. Congress will enact legislation that would aid tribal governments in assuming the responsibility for control of education in accordance with their desires.

7. Amendments to P.L. 874 and 815 such that: (1) the dollars directed to aid schools educating Indian students be funneled through a tribal monitoring system, than to the school, (2) a set-aside provision is made to cover costs of tribal administration.

8. Amendments to P.L. 638 such that (1) a duly elected Board of Regents may be recognized as a unit representing tribes and tribal opinion to contract for and administer post-secondary schools with a multi-tribal population; (2) in case of multi-tribal elementary and secondary schools, a duly elected Board of Regents indluding at least one representative from each tribe, be recognized as a unit representing tribes and tribal opinion to contract for and administer those schools.

9. Amendments to P.L. 638 and JOM such that: (1) any dollars contracted for the education of Indian children through P.L. 638 and JOM would pass through tribal monitoring system (2) in utilizing this contract or monitoring powering with P.L. 638 or JOM a tribe may decide the extent to which it wishes to control the educational system affecting its children. This decision runs the gamut from total tribal ownership and control to utilization of the tribal government only as a monitoring system, (3) if the tribes' option to set up an organizational unit to monitor funds, a set-aside provision should be made available to cover costs of tribal administration.

10. Amendments to all Indian education legislation such that: (1) the state or local government not in compliance with agreements and contracts for Indian education can be sued by the tribe in U.S. District Court or in a state court of general jurisdiction, (2) the court may grant the plaintiff a temporary restraining order, preliminary or permenent injunction or other order including suspension, termination or repayment of funds or placing any further payments in escrow pending the outcome of the litigation.

APPENDIX C

LIST OF ADDED TOPIC AREA FINDINGS

BIA

1. Congress will initiate legislation for the funding and administration under a consolidated Indian agency for programs:

   A. To study and establish standards for Indian education and develop an accreditation system for Indian schools.

   B. To train non-Indians who teach and work with Indian children as an interim measure until there are enough Indian educators.

   C. To educate and prepare the tribes to organize and operate their own educational systems.

   D. To subsidize a long-range effort to train and certify Indian educators for Indian schools.

   E. To certify Indian programs for curriculum development and library development.

   F. To provide for a professional clearinghouse to keep education information, i.e., teacher availability, new curricula, and special information flowing from school to school and tribe to tribe.

   G. To give professional Indian educators the opportunity to give regular input on new educationalmethods and resources to the tribes, the tribes in turn can utilize these suggestions if they choose.

11. Congress shall provide, under the umbrella of the consolidated Indian agency appropriate legislation for the administration and funding of improved off-reservation boarding schools.

12. Funding would be used to define the goals and objectives for each O.R.B.S. Create and academic emphasis that fits the particular goals of each school.
    1. A vocational/technical school
    2. A school for the gifted with emphasis on academic training.
    3. A school for special learning difficulties (Basic skills emphasized)

13. Juvenile corrections should be the responsibility of the tribe(s) and not the O.R.B.S.

14. Hire sufficient diagnostic staff, a program and development specialist, and curriculum development that is responsive to student needs both psychologically and academically for each O.R.B.S.

15. Choose teaching and guidance personnel on the basis of ability to do the job rather than rank in civil service.

16. Give parents and community the opportunity to contribute ideas and participate in school procedure.

17. Give the school advisory boards real decision power.

Tribal Control

(See first 10 General Findings)

11. Tribal control at minimum could entail utilizing the tribal government as a monitoring system for federal funds targeted for Indian education. Dollars targeted specifically for Indian children, for example, JOM, would not only pass through the tribe but the tribe could also direct how those dollars were to be spent.

12. Where a local school system rejects tribally determined educational priorities for JOM and other target funds, those funds should be available to the tribe for use in a program of its own.

13. In recognition that one year's funding may be an insufficient base to establish an independent program, there should be provision to allow for carryover of previous year's funding.

14. To facilitate the move toward Indian control of Indian education, trained specialists will be needed. Programs for Indian people to direct Indian control should be established.

15. Monies should be provided for programs to educate and prepare tribes to organize and operate their own education (to the extent they wish).

16. Monies should be provided to subsidize a long-range effort to train and certify Indian educators for Indian schools.

17. Monies should be provided to establish training programs for teachers of Indian students.

18. Monies should be provided to subsidize programs for curriculum development and library development for Indian schools.

19. Monies should be provided to study and establish an accreditation system for Indian schools.

20. Monies should be provided to study and establish standards for Indian schools.

Higher Education

(See first 10)

11. Organize an elective process for advisory boards and boards of regents for all BIA schools (Haskell, IAIA, SIPI).

12. Congress, through specific legislation will provide funding for scholarships in three academic areas:

    1. Vocational
    2. Liberal arts
    3. Graduate level.

13. Graduate level scholarship should take into account extra expenses such as books, lab fees and the greater possibility graduate students will be married.

14. Scholarship funding is directed through both Indian organizations and tribes which would distribute the money to eligible Indian students.

15. Each student who meets the requirements of Section 411 (A) (1) of the Higher Education Act of 1965 shall be entitled to a grant in an amount computed under subsection (a) of subsection (1).

16. Congress must enact legislation which would, under the consolidated Indian agency, carry out a program for funding and administration of Indian post-secondary schools.

17. Legislation such to include funds for more Indian owned and operated colleges such that higher education is available to all Indians who desire it.

18. Legislation such to include funds to establish a number of institutions of higher learning for interpreting and sustaining the culture, languages and traditions of Indian people.

19. Legislation such to include funds provided by the Federal government to any institution of higher learning that is educating Indian students (similar to JOM).

20. Accreditation for Indian post-secondary institutions should be provided by an Indian designed and organized board.

18. Set up funding structures to separate O.R.B.S. from other BIA funded schools.

19. Standardize accounting procedures and fiscal reports of all O.R.B.S.

20. Remove post-secondary schools run by the BIA from O.R.B.S. states so they have the option to control: Staff, budget, programs, enrollment, and student body.

21. Organize an elective process for advisory boards and boards of regents for all BIA schools (Haskell, SIPI, IAIA)

U.S.O.E.

(See first 10 General Findings)

STATES ROLE

(See first 10 General Findings)

APPENDIX D

INDIVIDUAL REACTION FORM

INDIVIDUAL REACTION FORMS

TOPIC _____

OCCUPATION _____ ORGANIZATION _____

	STRONGLY AGREE	AGREE	UNDECIDED	DISAGREE	STRONGLY DISAGREE
Recommendation:					
1	SA	A	U	D	SD
2	SA	A	U	D	SD
3	SA	A	U	D	SD
4	SA	A	U	D	SD
5	SA	A	U	D	SD
6	SA	A	U	D	SD
7	SA	A	U	D	SD
8	SA	A	U	D	SD
9	SA	A	U	D	SD
10	SA	A	U	D	SD
11	SA	A	U	D	SD
12	SA	A	U	D	SD
13	SA	A	U	D	SD
14	SA	A	U	D	SD
15	SA	A	U	D	SD
16	SA	A	U	D	SD
17	SA	A	U	D	SD
18	SA	A	U	D	SD
19	SA	A	U	D	SD
20	SA	A	U	D	SD

Comments:

APPENDIX E

PROCEDURES TO BE OBSERVED DURING THE REACTION PRESENTATIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
HEALTH SERVICES ADMINISTRATION
ROCKVILLE, MARYLAND 20852

INDIAN HEALTH SERVICE

The Honorable James Abourezk
Chairman, American Indian Policy
Review Commission
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Thank you for extending to me the opportunity to comment on the Tentative Final Report of the American Indian Policy Review Commission. My comments are addressed to several broad areas within which fall in the recommendations associated with the health section of Chapter 8, Social Services.

The scope and direction of the Federal Indian health program are molded in large measure by laws (including appropriations acts), regulations, policies and other guides made available by the Legislative and Executive Branches relative to Indian health problems, and to professional, support, and community self-determination activities in the health field. The role of the Indian Health Service is to administer the program consistent with these guides. The majority of the recommendations in the health section relate directly to actions by the Congress and/or the Administration, and, therefore, are beyond the commentary purview of this organization. Those that recommend Executive Orders, Congressional consideration of budgetary parameters, Congressional establishment of organizational entities, and those pertaining to other Departments are illustrative examples. Even though these types of recommendations are beyond our commentary purview, Senator Abourezk, please be assured that the IHS will always do its best to carry out its legislative, policy and other mandates. In so doing, we shall, working in partnership with the Indian communities and their leadership, endeavor to be imaginative in administering the health program in ways calculated to obtain maximum value from all resources with which IHS is entrusted in order to combat the massive health problems confronting American Indians and Alaska Natives.

Some recommendations pertain to recent public laws. I am happy to report that we have, in fact, made every effort to involve Indian people and Indian organizations in working toward successful implementation of Public Law 94-437. Recently, in testimony, I indicated that, up to that date, IHS had some 110 meetings with Indians in about 50 locations throughout the Nation regarding PL 94-437 activities, including regulations. Intensive communications will continue regarding regulations and their implementation. A similar format has been followed in connection with Public Law 93-638. It is my personal conviction that these close, cooperative efforts are indispensable to any and all aspects of program management, as well as being consistent with the fundamentals of self-determination as outlined in the mandates contained in PL 93-638 and in PL 94-437.

One recommendation specifically pertains to alcoholism projects. As indicated above, IHS will continue to do its best to assure that its work is carried out to the best of our ability, appropriate to the needs and desires of the Indians, and within the framework of our authorities and resources, present and future.

Again, I thank you for the opportunity to read the Tentative Final Report, and for your invitation to comment thereupon.

Sincerely yours,

Emery A. Johnson, M. D.
Assistant Surgeon General
Director, Indian Health Service

INDIAN RIGHTS ASSOCIATION

EVALUATION OF THE TENTATIVE FINAL REPORT

of the

AMERICAN INDIAN POLICY REVIEW COMMISSION

NAME: Bette Crouse Mele, President
Elaine P. Lariviere, Administrator

ORGANIZATION: Indian Rights Association, founded 1882, non-profit organization

ADDRESS: 1505 Race Street, Philadelphia, PA 19102

PRIORITY RECOMMENDATIONS

We support the following recommendations because we believe the survival of American Indian communities depends on such corrective measures.

1. TRIBAL GOVERNMENT
   Chapter 5, Paragraph 1, Page 5-29
   In the section beginning with the words "That the long term objective of Federal-Indian policy should be the development..."

2. TRIBAL GOVERNMENT
   Chapter 5, #2, Page 5-52
   In the section beginning with the words "That Section 16 of the Indian Reorganization Act..."

3. TRIBAL GOVERNMENT
   Chapter 5, #3, Page 5-53
   In the section beginning with the words "That Section 2 of Title 25, U.S. Code, should be amended..."

4. FEDERAL - INDIAN TRUST RELATIONS
   Chapter 4, III A, #1-4, Pages 4-14, 4-15
   In the section beginning with the words "In order to clarify and improve the administration of the Federal trust..."

5. FEDERAL - INDIAN TRUST RELATIONS
   Chapter 4, III B, #1-4, Pages 4-15, 4-16
   In the section beginning with the words "Indian Trust Rights Impact Statement. Before any agency takes action..."

6. FEDERAL - INDIAN TRUST RELATIONS
   Chapter 4, III D, #1-6
   In the section beginning with the words "Legal Representation for Indians. In order to diminish the conflict of interest..."

93-440 O - 73 - 26

7. FEDERAL ADMINISTRATION
Chapter 6, Page 131, Entire Page
In the section beginning with the words "The Commission recommends that: 1. The President submit to Congress..."

8. FEDERAL ADMINISTRATION
Chapter 6, Page 137, Last Paragraph
In the section beginning with the words "The Commission recommends that: Congress establish permanent standing or special select committees for Indian affairs..."

9. ECONOMIC DEVELOPMENT
Chapter 7, Paragraph 1, Page 7-34
In the section beginning with the words "Congress should appropriate sufficient funds..."

10. ECONOMIC DEVELOPMENT
Chapter 7, Pages 7-35, 7-36, #1-5
In the section beginning with the words "To provide solutions for the debilitating problems..."

11. ECONOMIC DEVELOPMENT
Chapter 7, Paragraph 4, Page 7-41
In the section beginning with the words "The Secretary of the Interior should allow the tribes to develop..."

RECOMMENDATIONS WITH WHICH THE INDIAN RIGHTS ASSOCIATION DISAGREES

1. WATER RIGHTS
The issue of water rights is an urgent issue. The recommendations of the American Indian Policy Review Commission are inadequate. More input is needed from water experts, and more emphasis must be placed on the importance of water to the viability of Indian reservations.

2. WATER RIGHTS
Hydrology reports and water resource inventories should be scrutinized for partiality. We believe that all are prejudiced and do not consider Winters Doctrine rights, present water flow, and future needs of Indian communities - with perhaps the exception of the Morrison-Merrill Report done for the Navajo and suppressed by the Bureau of Indian Affairs.

3. SEPARATE DISSENTING VIEWS OF CONGRESSMAN LLOYD MEEDS

We disagree with the following recommendations because they remove from Indians the power to control territory under their legal title, to administer justice, to levy taxes essential to self-sufficiency, and to use resources that are legally theirs.

Page 42, #6
In the section beginning with the words "I recommend that Congress enact legislation directly prohibiting..."

Page 57, #5
In the section beginning with the words "I recommend that Congress enact legislation providing that states shall have the same power to levy taxes..."

Page 88, Paragraph 2
In the section beginning with the words "I would resolve all doubts by recommending to the Congress the enactment of a statute of limitations..."

ADDITIONAL COMMENTS
by Bette Crouse Mele

The Indian Rights Association, founded in 1882, and having advocated the Dawes Act in order to assist the Indian people in surviving a disastrous period of colonization and its attendant greed for land and destruction of Indian peoples, acknowledges the destructive impact of the Dawes Act and the allotment of Indian lands on Indian survival. The plan did not work out and has led to serious problems of jurisdiction and exploitation. Having gotten what they wanted back in 1887, the non-Indian came to believe that Indians are an expendable resource and that what is Indian is rightfully theirs. That mentality prevails today in the form of backlash organizations all fired up to press politicians for what they consider rightfully theirs. The climate today is the climate that prevailed in the 1880's when Congress acted under pressure of popular public opinion instead of fulfilling its trust responsibility to the Indian people by protecting them from encroachments on their lands and fulfilling treaty obligations. The time is long overdue to advocate Indian Federal Policy instead of Federal Indian Policy. We see the purpose of the Commission to present the Indian position in the effort to correct the present inequities that Indians suffer as a result of long neglect of their legal status.

DO YOU FEEL THE CONTENT OF THE REPORT PROVIDES AN ACCURATE AND USEFUL PICTURE OF THE SITUATION

Yes, it provides an accurate and useful picture, considering the time and financial limitations under which the Commission worked.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 4 - 1977

Honorable James Abourezk
Chairman, American Indian Policy
Review Commission
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Thank you for furnishing this Department, and particularly the Bureau of Indian Affairs, with copies of the draft of the final report of the American Indian Policy Review Commission. We are also grateful for your invitation to provide input involving our reaction to the draft for consideration by your Commission in arriving at the completed product.

In response to your request, we have given the report wide distribution among the Bureau's field staff, and they are currently studying it with the request to forward to us their thoughts and reactions.

After due deliberation, however, it has been respectfully determined by this Department to decline to provide official comment on the report at this time. This position is consistent with that which has been recently presented in testimony before several committees of the Congress. It stems in part from our desire to in no way inhibit the Policy Review Commission in reporting its findings as it sees them. It also admittedly reflects our desire for additional time to fully measure the contents of the report and not prematurely react to it while we are still in the transition process and do not as yet fully have this Administration's Indian leadership on board. This is particularly true in respect to the vacancy of the proposed Assistant Secretary for Indian Affairs. Further, we would like at this time to avoid taking an official position which might in any way preempt tribes across the country from arriving at their independent judgments concerning the report.

In closing, we are grateful for your consideration in sharing the draft with us and shall be appreciative of your understanding

of our position in this matter. We look forward to working further with you in responding to the finalized report.

Sincerely,

James A. Joseph
Under Secretary

May 16, 1977

Senator James Abourezk
Chairman, Comm. Indian Policy
Review Commission
Senate office Building
Washington, D. C.

Earl E. Jagmin
301 S. 10th St.
Shelton, Wa 98584

Dear Senator:

Having read the enclosed Article and others in the same line (giving the Indians ever increasing Governmental Powers within their Reservations) I become more and more incredulous at what I call "Long Talker" activity by Commissioners on Indian Rights, Including Yours.

I think Vice-Chairman Wilkie must be the only Sane member of the Commission of which you are Chairman or you have abandoned all policy making to the Indian Members of your Commission.

I have been under the impression that our various governmental agencies have been trying to integrate the various minority groups into our Society but it seems like we are trying to segregate the Indians more and more. Actually, I believe as a first step in integrating Indians. We should have eliminated Indian Reservations entirely (This has been advocated by some government agencies in the past) Your report says "Indian Tribes are Governments" How can we have seperate Governmental enclaves within our National and State Governments. I know this is being advocated by governmental Agencies and Individuals within our Government but to me this is becoming more and more ridiculous. We're supposed to be United.

as ~~Senator~~ Ripagnit made state, non-Indians living within Reservations will be somewhat resentful of any authority over them except duly constituted State and Federal Authority.
I believe Indians as well as all minority groups in our country should benefit by what our country offers and benefit equally with all citizens but I certainly support Representative Lloyd. Needs opinions in regard to the opinions coming out of the American Indian Policy Review Commission.

Sincerely,
Earl E. Jagnow

C.C. Rep. Lloyd Meeds

Meeds Attacks Move for More Indian Powers

By W. DALE NELSON

WASHINGTON — (AP) — Over a vigorous dissent by Washington Rep. Lloyd Meeds, a congressional commission will recommend this week that Indian tribes eventually be given increased legal powers over both Indians and non-Indians.

"Indian tribes are governments," says the report by the two-year-old American Indian Policy Review Commission. "The federal policy must accept the position that the supervisory authority it asserts must be limited and flexible."

In his 100-page dissent, Meeds, vice chairman of the commission, calls the 900-page report "one-sided advocacy" seeking to "convert a romantic political notion into a legal doctrine." He adds:

"Doing justice by Indians does not require doing injustices to non-Indians.

"American Indian tribes are not a third set of governments in the American federal system. They are not sovereigns.

"If Congress should ever think it wise to give Indian peoples experience in government by letting them practice on non-members, I predict we will swiftly be set straight by the vast majority of our constituents."

Before his election to Congress in 1964, Meeds served as deputy prosecutor and prosecutor in Snohomish County which includes Indian reservation land.

The commission, created by Congress in 1975, is made up of five Indians and six members of Congress.

Its report, due Tuesday, says tribal powers "spring from the tribe's own inherent sovereignty and can be diminished only by express federal, not state, action." It says Indian sovereignty is "of the highest legal standing."

Meeds argues that this "doctrine of inherent tribal sovereignty" has

Back Page, Column 1

384

Meeds Attacks Proposal For More Indian Powers

From Page A-1

been rejected repeatedly by the Supreme Court.

At a meeting Friday, Sen. James Abourezk, D-S.D., chairman of the commission, argued Meeds was dissenting to things which the report does not say. Abourezk said no one denies that the sovereignty of the tribes is limited by the power of Congress.

The commission recommends that federal policy be aimed at "aiding the tribes in achievement of fully functioning governments exercising primary governmental authority within the boundaries of the respective reservations.

"This authority would include the power to adjudicate civil and criminal matters, to regulate land use, to regulate natural resources such as fish and game and water rights, to issue business licenses, to impose taxes, and to do any and all of those things which all local governments within the United States are presently doing."

The commission recommends against "a broad legislative solution" to Indian jurisdictional disputes at this time but adds that "the growth and development of tribal government into fully functioning governments necessarily encompasses the exercise of some tribal jurisdiction over non-Indian people and property within reservation boundaries."

"I disagree, as I think the vast majority of the American people would disagree," Meeds said in his dissent.

"I recommend that Congress enact legislation directly prohibiting Indian courts from exercising criminal jurisdiction over any person, whether Indian or non-Indian, who is not a member of the Indian tribe which operates the court in question."

The Washington congressman made a similar recommendation with regard to civil courts, except when a non-Indian defendant "expressly and voluntarily submits to the jurisdiction of the tribal court."

The report says the Bureau of Indian Affairs suffers "a notable absence of managerial and organizational capacity" and the Department of Justice has conflicts of interest which "preclude adequate legal representation of Indian trust interests." It recommends a cabinet-level department or independent agency incorporating all government programs affecting Indians.

It proposes that control of Indian education be shifted from state and local government to tribal governments.

In a proposed section to be voted upon tomorrow, it would also call for exemption of Indians on their reservations from state gasoline taxes and exemption of leased Indian lands from state mineral taxes.

The same proposed section would provide that "all federal programs designed to benefit Indian people or tribes be given liberal interpretation in finding the intent of Congress to exempt them from federal taxation."

J. BENNETT JOHNSTON
LOUISIANA

United States Senate
WASHINGTON, D.C. 20510

June 1, 1977

The Honorable James Abourezk
Chairman
Select Committee on Indian Affairs
1105 Dirksen Senate Office Building
Washington, D. C.

Dear Jim:

It was recently called to my attention that the American Indian Policy Review Commission has recommended to Congress that all native American tribes who have yet to be federally recognized receive such recognition.

I would like to take this opportunity to express my support for the Tunica-Biloxi Tribe of Marksville, Louisiana, and the Houma Tribe of Dulac and Galliano in their bids for recognition. I hope you will take my support into consideration and that both tribes will be successful in achieving recognition.

With kindest regards,

Sincerely,

J. Bennett Johnston
United States Senator

JBJ:Hbb

UNIVERSITY OF CALIFORNIA, BERKELEY

BERKELEY • DAVIS • IRVINE • LOS ANGELES • RIVERSIDE • SAN DIEGO • SAN FRANCISCO SANTA BARBARA • SANTA CRUZ

NATIVE AMERICAN STUDIES
3415 DWINELLE HALL

BERKELEY, CALIFORNIA 94720

April 22, 1977

Senator James S. Abourezk
American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2d and D Streets, S.W.
Washington, D.C. 20515

Dear Senator Abourezk:

Thank you for the opportunity to review the tentative final report of the American Indian Policy Review Commission. I found the report very informative. It compiles a significant amount of factual material that sheds light on the historical background of the relationship of American Indian tribes to the United States government and the contemporary status of those tribes.

There are several specific points in the report that I would like to comment on. One concerns the status of the Indian Civil Rights Act of 1968. Many Indian people and also non-Indian lawyers that I have talked to consider that the Indian Civil Rights Act of 1968 is an infringement on the concept of tribal sovereignty. The report suggests that limitations be placed on the exercise of federal court jurisdiction in cases brought under the Civil Rights Act, and if the Act is to continue in force, those limitations must certainly be adhered to in order to protect the integrity of Indian court systems. I would emphasize the point made in connection with the discussion of tribal courts--that they are in a state of evolution and are becoming increasingly sophisticated in areas of administration of justice where they may have been less prepared in the past. Indian people must also be recognized as being able to exercise sound and intelligent judgment as other Americans are given credit for that capacity. There are no inherent cultural limitations on the exercise of full judicial powers to assure justice in an Indian community. I would urge that as part of a long range policy, Congress look to the repeal of the Indian Civil Rights Act of 1968.

In the area of education, I have personal concerns about the recommendations of the Commission in Section 8 of the report. As a teacher in a University setting, specifically in the Native American Studies program at the University of California at Berkeley, I am aware

of many of the strengths and also of the limitations of higher education in relation to Indian people. The recommendation of the Commission in the area of higher education--that funds be allocated for the development of more Indian controlled colleges on or near reservations--seems to me an unproductive use of funds unless the nature of those colleges is very clearly defined. I say this not because I feel that Indians should not have access to college level education but because the feasibility of establishing a network of Indian institutions of higher education is very low. Even in a long range plan, Indian people would probably not find it possible to obtain the staff necessary to operate such colleges. The teaching of culture and language courses can certainly be done by community people who do not have the typical credentials demanded by a non-Indian institution. But the skills that Indian people usually demand from a college education are those at a professional level that will allow those people to interact effectively with agencies of the federal government and with non-Indian professionals. Since Indian people with professional level college training and skills are so few in number, it would be virtually impossible to attract a large enough number of them from professional employment into teaching in order to staff high quality professionally oriented programs at Indian colleges. Even if those Indian colleges are certified by an Indian controlled accreditation agency, as is suggested, that accreditation would not necessarily be accepted by general accrediting agencies, and the degrees from those colleges would not allow their holders to interact effectively with the non-Indian world. If there is any way to make college education more accessible to INdians, it is in the area of financial aids, i.e., more scholarships and more effectively administered scholarship programs in the Bureau of Indian Affairs. I must point out that I am distinguishing college education from purely vocational or purely culture-oriented education. I think that Indian controlled colleges can exist where they offer training at the vocational level for career opportunities and where courses in language and culture are offered at the personal improvement level. I do not think that Indian controlled colleges can truly progress to the level of offering four year professional degrees that will equip their graduates to deal effectively with non-Indian communities so as to obtain the greatest benefits for Indian communities.

Another point raised in the report is that Indians are often forced to seek services through federal domestic assistance programs that are administered through state agencies--thus subjecting Indians to rules and restrictions imposed by states. I have been a member for the past two years of a government advisory committee, the National Community Education Advisory Council, which advises the U.S. Office of Education on the implementation of the Community Schools Act (a special amendment to the Elementary and Secondary School Act) that was passed in 1974. The Act provides funding for programs above and beyond the regular school program. Those programs are intended to meet specific community based needs or desires. The Act designates Local or State Educational Agencies (as defined in E.S.E.A.) as eligible applicants. Since Indian tribes and the Bureau of Indian Affairs do not fall under this definition, Indian controlled schools are excluded from the provisions of this act. The sum of money

available for the Community Schools Act is small ($3.5 million in fiscal year 1977) and the number of applicants possible is very large. Some people (notably Congressman Meeds, with whom I have corresponded about this matter), feel that adding Indian tribes and the Bureau of Indian Affairs as potential grantees would simply be adding more people to an already too large pool of potential applicants. Another argument that has been raised is that Indians who attend public schools can be served through their local schools (although local public school districts are not always sympathetic to local Indian people). If Indian people in communities that are predominantly Indian make requests through local public school districts they face the situation of being bound by state regulations or procedures that might affect the success of their request. Given the inadequate budget of the Bureau of Indian Affairs to meet all of the basic educational needs of Indian people, it would seem that Indian people ought to be eligible for whatever supplemental funding they can generate. The Commissioner of Education and the Commissioner of Indian Affairs have agreed in principle that it would be desirable to include Indian tribes and the Bureau in the language in the Community Schools Act that defines eligible applicants. The Bureau could certainly provide some of the matching funds that the Community Schools Act requires of its grantees, and Dr. William Demmert, director of Education for the Bureau, told me in a personal conversation that the Bureau was making some commitment to community education by including facilities for community meetings and activities in its plans for new school buildings. I would point out that the matter of the Community Schools Act is an example of the way in which Indians are overlooked in the process of drawing up legislation in the Congress. I would suggest a policy to Congress--that it consider whether Indians can be included in the language defining recipients of benefits of all social service and educational legislation. This policy would certainly seem to be consistent with the intent of the Indian Self-Determination and Education Improvement Act.

Finally, I feel compelled to comment upon Congressman Meeds' dissenting view to the Commission's report. He accuses the report of taking an advocacy position in regard to Indians because it operates from the premise that Indian tribes are sovereign entities. He denies the legitimacy of the report because it works from this basic premise. He denies the validity of that premise by simply interpreting much of the same evidence presented in the report from his own viewpoint, rather than offering significant new evidence to contradict the findings of the Commission. He is proceeding only from his own assumption concerning sovereignty. In the past American Indians were subjected to policy that was based upon the assumption that Indians were not distinct entities from the United States. The fact was overlooked that Indian tribes were not signatories to the U.S. Constitution. If Congressman Meeds denies the right of Indian tribes to assume jurisdiction over non-Indians on reservations because that would constitute lack of consent of those governed, he must also recognize that Indian tribes have been subjected to a long historical process of exactly that kind of treatment. This point is not necessarily to assert the specific right of Indian tribal jurisdiction over

non-Indians but to point out one of the seeming contradictions in Congressman Meeds' position. I feel that the Commission's report does an excellent job of pointing out the historical factors influencing past Indian policy. If the influence on policy now can be the informed opinions of Indian people, then Indian tribes can begin to assert that sovereignty that inheres to them as the original inhabitants of this country.

Sincerely yours,

Clara Sue Kidwell

Clara Sue Kidwell
Associate Professor

KODIAK AREA NATIVE ASSOCIATION

BOX 172
KODIAK, ALASKA 99615
PHONE: (907) 486-5736

April 15, 1977

The Honorable James S. Abourezk
Chairman
American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2D & D Streets, SW
Washington, D. C. 20515

RE: AIPRC's tentative Final Report

Dear Senator Abourezk and Committee Members:

The following is a tentative report to be presented at the Kodiak Area Native Association Annual Membership Meeting, April 27, 1977. A final report shall follow after the Annual Meeting.

This document represents the list of recommendations developed by the Review Committee of The Kodiak Area Native Association (KANA) Board of Directors, who met on April 5-7, 1977. The Committee felt that the peculiar concerns and problems of Alaskan Natives, resulting from their separate history and the recent enactment of the Alaska Native Claims Settlement Act should be made known to the American Indian Policy Review Commission, prior to the submission of its report to the United States Congress.

It is the position of the Committee that the Findings and Recommendations contained in Chapter 12 of the Commission's report governing the special circumstances of Alaskan Natives is on balance, a well considered and appropriate statement. Additionally, the findings and recommendations contained in the main body of the report are likewise accepted and supported. Accordingly the Board of Directors of KANA endorses the Commission's findings and recommendations, subject to such further qualifications and additions as hereafter set forth.

1. Because of the uncertainty regarding the construction of the Land Claims legislation, it is now difficult to determine to what extent Alaska Natives have the same status and relational problems as do outside tribes. Certainly a number of those problems are the same or similar. But there is no question that the problems of Native status in Alaska and the relationship of Alaska Natives with the government and private persons will be shaped by the amendment, or lack of amendment, to the Land Claims legislation, as well as its interpretation.

2. In the Kodiak area private individuals, including Native Alaskans themselves, do not clearly distinguish between the regional profit making corporation, (Koniag, Inc.), the non-profit association (KANA), individual village corporations established by the Act, and municipal governments associated with particular rural areas.

3. It is the Native People of the Kodiak area and not the government who can and should decide who comprise the various tribes associated with the area, irrespective of any determinations to the contrary by the Secretary of the Interior in conjunction with the administration of the Land Claims Act.

4. The Land Claims Legislation recognized groupings of Alaskan Natives by geographic area, but does not necessarily overlap with the traditional ethnic groupings of Alaska Native people.

5. Federal and state laws should generally apply equally to American Indian people, irrespective of whether individuals reside in reservations or in the general community, and irrespective of whether the government deems certain tribes to have "adequately" developed governmental structures.

6. Both the lack of a clear definition of "tribe" and related words in the Indian Self Determination and Educational Assistance Act, and similar acts, and the failure to develop clear administrative standards for interpreting the acts have impeded their legislative intent and the distribuation of benefits that Congress envisioned in passing the laws.

7. These definitional problems pertain to the question: "With what entity should the federal government deal in transmitting benefits and responsibilities under the legisilation?" We recommend now that KANA as a larger umbrella organization of the Kodiak tribes, as a repository of sovereign tribal power, (and because it has thus far developed administrative expertise), be the primary recipient of federal funds designed to be used for service and grant oriented programs. Federal grants, such as money to construct community halls or health clinics, because they are tied to a specific purpose will often be channeled to village tribal entities by KANA when village concerns and individuality can be more clearly expressed through basic tribal structures. Decisions as to when to involve specific tribal entities in the control of a particular grant can be made effectively by the KANA board because it is composed of a representative from each of the tribal entities in the area, and each board member is directly accountable to his or her specific tribe.

8. Municipal governments and Corporations (both regional and village) that have been set up under the land claims settlement act are inappropriate groups to be labeled "tribe" because of their potential for non-Native control. If it is not recognized that village corporations are not the same as sovereign tribal entities, there is a substantial possibility that at the end of the 20 year period of "inalienability" of land claims stock, many persons will view Alaskan Natives as terminated as a separate sovereign people through assimilation into the corporate mainstream of American business affairs.

9. It is essential to recognize now that the Land Claims legislation may have as a purpose the termination of Native people as sovereign per-

93-440 O - 78 - 27

sons in a larger society. Accordingly, we recognize ourselves as being sovereign and the federal government must also recognize our sovereignty.

10. The status of Alaska Natives is in reality tied to the interpretation given the Land Claims Act, and to whether it is viewed as a device to effect termination of Alaska Natives as tribal members.

11. There are a substantial number of Native Alaskans who do not view the Land Claims Settlement as terminating their aboriginal rights to the land because the process by which the Land Claims Act was approved did not involve the representative approval of Alaska's Native People with full knowledge of the terms and potential effects of the act. No matter what legislation is passed by Congress, the Alaskan Native people remain in control of their land and their lives and thus their sovereignty. To the extent that they accept the land, money, and programs of the federal government, they accept them as a sovereign equal in stature to the federal government.

12. Findings and Recommendations of the American Indian Policy Review Commission Report pertaining to the need for land claims supplemental legislation were affirmed in full as follows:

Findings: 7, 8, 9, 10, 12, 13 & 14 through pages 12-29 through 12-30.

Recommendations: 3-7, 9, & 12 on pages 12-31 through 12-34.

13. The federal government's "definition" of ¼ Native blood to qualify for federal social and welfare programs and to become enrolled under the Land Claims Act, exemplifies its usurpation of Alaskan Natives' sovereign right to determine their own status.

14. It is essential that provision be made for the government to reimburse Native Alaskans when litigation is necessary to protect their rights; otherwise a large portion of the settlement monies will continue to end up with lawyers and other professionals, rather than with the intended beneficiaries.

15. Whether or not attorney's fees are made recoverable by statute through amendment to the Land Claims legislation, it is generally in the interest of Alaska Natives to resolve a large number of the issues presented by the AIPRC findings and these recommendations through federal legislation, rather than through litigation.

16. Land Claims legislation purported to substitute established rights to approximately 40 million acres of land for unliquidated aboriginal title. But even viewing the legislation most favorable towards the federal government, it was an exchange of equal value. Thus it should not and can not result in the diminution of social services which are traditionally the federal government's responsibility, and which remain desperately needed by Alaskan Natives. They must remain elegible

to receive the benefits of existing and future legislation to promote Indian development and welfare.

17. Even though Kodiak Area Natives are not directly impacted by the D-2 issue, we feel it is critical to take a pro-subsistence stand. It is vital to the subsistence life style of Alaskan Natives who retain it, that large areas of land be undisturbed if subsistence hunting, trapping, collecting and fishing are to remain viable. The federal government and the state government must recognize this in developing legislation and administrative regulations pertaining to the land not conveyed directly to Alaskan Natives, or to the corporations under the act.

18. Federal legislation impacting Native subsistence uses such as the Marine Mammal Protection Act needs to be studied to develop a uniform policy to protect Native subsistence uses as a first priority. Congress should consider legislation to guarantee that states do not have authority to infringe on Native hunting, fishing, and other subsistence uses.

19. Various alternatives should now be considered with regard to the eventual taxation of lands conveyed under the act. There is no reason why all the lands - some of which will end up in individual ownership - must have the same tax incidents. Similarly, various alternatives must be considered as to when taxation should begin; 20 years after passage of the Act, 20 or more years after actual conveyance and permanent exempt status are all possibilities. In any case, extension of the current exemption must be considered immediately to assure informed and orderly planning. The commission's recommendations that land which is not leased can regain such exempt status if it is no longer productive of income, must be considered seriously.

20. Identical concerns are presented by the prospective alienability of stock under the Land Claims Act. It is our position that here too, some extension of time past the 1991 deadline is necessary due to the delay in the conveyance of land to the village and regional corporations. Immediate attention should be devoted to the study of these problems rather than delaying their consideration until not later than 1989 (see recommendation 11, page 12-34).

Thank you for the opportunity to submit these recommendations on the Final Report.

Sincerely,

KODIAK AREA NATIVE ASSOCIATION
Henry F. Eaton, President

Frank R. Peterson/kbo

Frank R. Peterson
Executive Director

FRP:lb
cc: Board of Directors

KODIAK AREA NATIVE ASSOCIATION

BOX 172
KODIAK, ALASKA 99615
PHONE: (907) 486-5726

May 2, 1977

The Honorable James S. Abourezk
Chairman
American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2d & D Streets, SW
Washington, D. C. 20515

Dear Senator Abourezk:

On behalf of the members, directors and staff of the Kodiak Area Native Association, I wish to submit herewith KANA's Convention Resolution No. 77 C-7 and the final review comments to the Tentative Final Report of the American Indian Policy Review Commission. Please be apprised that these comments were developed by review of the Tentative Final Report in its entirety by the board of directors, a review committee of the board and the Convention Resolutions Committee prior to consideration by the membership in convention on April 27, 1977.

You are hereby respectfully requested to add the attached resolution, Number 77 C-7, with the twenty enumerated comments to the Final Report of the American Indian Policy Review Commission prior to its submission to the U. S. Congress.

Thank you again for the opportunity to participate in the development and refinement of an historic document by the Commissioners, task force groups and staff of the AIPRC.

Sincerely,

KODIAK AREA NATIVE ASSOCIATION
Henry E. Eaton, President

Frank R. Peterson
Executive Director

FRP:lb
cc: Senator Ted Stevens
Senator Mike Gravel
Congressman Don Young
Commissioner John Borbridge, Jr.
Byron Mallott, President, AFN
Board of Directors
Tundra Times
Matt Jamin
Enc: As Stated

KODIAK AREA NATIVE ASSOCIATION

BOX 172
KODIAK, ALASKA 99615
PHONE: (907) 486-5726

RESOLUTION NO. 77 C-7

Response to the American Indian Policy Review Commission Report

WHEREAS, the Kodiak Area Native Association has been asked by the American Indian Policy Review Commission to review the Commission's Tentative Report to Congress; and

WHEREAS, the Kodiak Area Native Association Board of Directors has met for three days to consider the Commission's report and has developed its own findings and recommendations to supplement those of the Commission; and

WHEREAS, the Board has generally accepted the recommendations of the Commission; and

WHEREAS, the Board has presented its own recommendations to the KANA membership on April 26 & April 27 for final review at the annual membership meeting and presented its tentative views to the commission on April 15; and

WHEREAS, the membership has agreed that the following recommendations are accepted as the findings and recommendations to the American Indian Policy Review Commission;

NOW THEREFORE BE IT RESOLVED THAT the attached findings and recommendations are adopted as the response of the Kodiak Area Native Association to the Report of the American Indian Policy Commission.

Dated this 11 day of May, 1977.

ATTEST:

Henry L Eaton, Pres
President

April 27, 1977 Convention Resolution: Do Pass

KODIAK AREA NATIVE ASSOCIATION

BOX 172
KODIAK, ALASKA 99615
PHONE: (907) 486-5726

FINAL COMMENTS & RECOMMENDATIONS
ON THE
AMERICAN INDIAN POLICY REVIEW COMMISSION'S TENTATIVE FINAL REPORT
FROM THE
KODIAK AREA NATIVE ASSOCIATION

April 27, 1977

The following is the final review comments considered and adopted by the Kodiak Area Native Association Annual Membership Meeting April 27, 1977.

This document represents the list of recommendations developed by the Review Committee of the Kodiak Area Native Association (KANA) Board of Directors, who met on April 5-7, 1977 and the membership in convention April 26 & 27, 1977. The Committee felt that the peculiar concerns and problems of Alaskan Natives, resulting from their separate history and the recent enactment of the Alaska Native Claims Settlement Act should be made known to the American Indian Policy Review Commission, prior to the submission of its report to the United States Congress.

It is the position of the Kodiak Area Native Association that the Findings and Recommendations contained in Chapter 12 of the Commission's report governing the special circumstances of Alaskan Natives is on balance, a well considered and appropriate statement. Additionally, the findings and recommendations contained in the main body of the report are likewise accepted and supported. Accordingly the KANA endorses the Commission's findings and recommendations with the following additional comments and recommendations:

1. Because of the uncertainty regarding the construction of the Land Claims Legislation, it is now difficult to determine to what extent Alaska Natives have the same status and relational problems as do outside tribes. Certainly a number of those problems are the same or similar. But there is no question that the problems of Native status in Alaska and the relationship of Alaska Natives with the government and private persons will be shaped by the amendment, or lack of amendment, to the Land Claims legislation, as well as its interpretation.

2. In the Kodiak area private individuals, including Native Alaskans themselves, do not clearly distinguish between the regional profit making corporation, (Koniag, Inc.), the non-profit association (KANA), individual village corporations established by the Act, and municipal governments associated with particular rural areas.

3. It is the Native People of the Kodiak area and not the government who can and should decide who comprise the various tribes associated with the area, irrespective of any determinations to the contrary by the Secretary of the Interior in conjunction with the administration of the Land Claims Act.

4. The Land Claims Legislation recognized groupings of Alaskan natives by geographic area, but does not necessarily overlap with the traditional ethnic groupings of Alaska Native people.

5. Federal and state laws should generally apply equally to American Indian people, irrespective of whether individuals reside in reservations or in the general community, and irrespective of whether the government deems certain tribes to have "adequately" developed governmental structures.

6. Both the lack of a clear definition of "tribe" and related words in the Indian Self Determination and Education Assistance Act, and similar acts, and the failure to develop clear administrative standards for interpreting the acts have impeded their legislative intent and the distribution of benefits that Congress envisioned in passing the laws.

7. These definitional problems pertain to the question: "With what entity should the federal government deal in transmitting benefits and responsibilities under the legislation?" We recommend now that KANA as a larger umbrella organization of the Kodiak tribes, as a repository of sovereign tribal power, (and because it has thus far developed administrative expertise), be the primary recipient of federal funds designed to be used for service and grant oriented programs. Federal grants, such as money to construct community halls or health clinics, because they are tied to a specific purpose will often be channeled to village tribal entities by KANA when village concerns and individuality can be more clearly expressed through basic tribal structures. Decisions as to when to involve specific tribal entities in the control of a particular grant can be made effectively by the KANA board because it is composed of a representative from each of the tribal entities in the area, and each board member is directly accountable to his or her specific tribe.

8. Municipal governments and Corporations (both regional and village) that have been set up under the land claims settlement act are inappropriate groups to be labeled "tribe" because of their potential for non-Native control. If it is not recognized that village corporations are not the same as sovereign tribal entities, there is a substantial possibility that at the end of the 20 year period of "inalienability" of land claims stock, many persons will view Alaskan Natives as terminated as a separate sovereign people through assimilation into the corporate mainstream of American business affairs.

9. It is essential to recognize now that the Land Claims legislation may have as a purpose the termination of Native people as sovereign persons in a larger society. Accordingly, we recognize ourselves as being sovereign and the federal government must also recognize our sovereignty.

10. The status of Alaska Natives is in reality tied to the interpretation given the Land Claims Act, and to whether it is viewed as a device to effect termination of Alaska Natives as tribal members.

11. There are a substantial number of Native Alaskans who do not view the Land Claims Settlement as terminating their aboriginal rights to the land because the process by which the Land Claims Act was approved did not involve the representative approval of Alaska's Native People with full knowledge of the terms and potential effects of the act. No matter what legislation is passed by Congress, the Alaskan Native people remain in control of their land and their lives and thus their sovereignty. To the extent that they accept the land, money, and programs of the federal government, they accept them as a sovereign equal in stature to the federal government.

12. Findings and Recommendations of the American Indian Policy Review Commission Report pertaining to the need for land claims supplemental legislation were affirmed in full as follows:

    Findings: 7, 8, 9, 10, 12, 13 & 14 through pages 12-29 through 12-30.

    Recommendations: 3-7, 9 & 12 on pages 12-31 through 12-34.

13. The federal government's "definition" of ¼ Native blood to qualify for federal social and welfare programs and to become enrolled under the Land Claims Act, exemplifies its usurpation of Alaskan Natives' sovereign right to determine their own status.

14. It is essential that provision be made for the government to reimburse Native Alaskans when litigation is necessary to protect their rights; otherwise a large portion of the settlement monies will continue to end up with lawyers and other professionals, rather than with the intended beneficiaries.

15. Whether or not attorney's fees are made recoverable by statute through amendment to the Land Claims legislation, it is generally in the interest of Alaska Natives to resolve a large number of the issues presented by the AIPRC findings and these recommendations through federal legislation, rather than through litigation.

16. Land Claims legislation purported to substitute established rights to approximately 40 million acres of land for unliquidated aboriginal title. But even viewing the legislation most favorably towards the federal government, it was an exchange of equal value. Thus it should not and can not result in the diminution of social services

which are traditionally the federal government's responsibility, and which remain desperately needed by Alaskan Natives. They must remain eligible to receive the benefits and future legislation to promote Indian development and welfare.

17. Even though Kodiak Area Natives are not substantially impacted by the D-2 issue, we feel it is critical to take a pro-subsistence stand. It is vital to the subsistence life style of Alaskan Natives who retain it, that large areas of land be undisturbed if subsistence hunting, trapping, collecting and fishing are to remain viable. The federal government and the state government must recognize this in developing legislation and administrative regulations pertaining to the land not conveyed directly to Alaskan Natives, or to the corporations under the act.

18. Federal legislation impacting Native subsistence uses such as the Marine Mammal Protection Act needs to be studied to develop a uniform policy to protect Native subsistence uses as a first priority. Congress should consider legislation to guarantee that states do not have authority to infringe on Native hunting, fishing, and other subsistence uses.

19. Various alternatives should now be considered with regard to the eventual taxation of lands conveyed under the act. There is no reason why all the lands - some of which will end up in individual ownership - must have the same tax incidents. Similarly, various alternatives must be considered as to when taxation should begin; 20 years after passage of the Act, 20 or more years after actual conveyance and permanent exempt status are all possibilities. In any case, extension of the current exemption must be considered immediately to assure informed and orderly planning. The commission's recommendations that land which is not leased can regain such exempt status if it is no longer productive of income, must be considered seriously.

20. Identical concerns are presented by the prospective alienability of stock under the Land Claims Act. It is our position that here too, some extension of time past the 1991 deadline is necessary due to the delay in the conveyance of land to the village and regional corporations. Immediate attention should be devoted to the study, of these problems rather than delaying their consideration until not later than 1989 (see recommendation 11, page 12-34).

1b

RESOLUTION NO. 21-77

WHEREAS, The Pueblo of Laguna has had a short briefing of the "Tentative Final Report" of the American Indian Policy Review Commission and,

WHEREAS, The All Indian Pueblo Council has made a special report to the Commission citing long standing positions of our Pueblo interests and making specific Recommendations, and

WHEREAS, The American Indian Policy Review Commission was charged with the responsibility of soliciting Indian Opinion throughout the Course of its life.

BE IT THEREFORE RESOLVED, that the Pueblo of Laguna is in complete accord with the Commission Recommendations on the following major elements.

1. That The Federal Government recognize its legal obligation as Trustee for American Indian Tribes as long as any tribe determines the need exists and that no unilateral action of the U.S. Congress would terminate a Tribe.

2. That Tribal Self-Governments be recognized by Congress through legislation to be sovereign governmental entities with rights and powers concommitant to those currently enjoyed by states and the Federal Government in all phases of American life, ie, socially, economically, and politically.

3. That Tribal Sovereignt, be recognized to the mutual benefit of the Tribe, the State and Federal Government that equality of opportunity may be as available to American Indians as to the Non-Indian.

4. That the Federal Government recognize this special relation to American Indian Tribes, and that a single Agency Prime Agent be designated as Trustee recognizing that the Trust Responsibility is a Federal service wide obligation.

5. That the Prime Agent be provided a separate legal staff , apart from the Interior Solicitors Office, which can represent the Prime Agent and Indian Tribes without intergovernmental Conflicts of Interest. Furthermore, that Congress appropriate funds for the hiring of private attorneys by Tribes.

6. That additional delegated authority be provided the Agency Superintendents to allow the decision making process to be accomplished at the level where Tribal Government decisions are made.

7. That additional Agencies be provided to minimize the uncooperative competition created among tribes of multi-Tribal Agencies when program projects and funding priority problems must be jointly determined.

8. That a zero based budget be utilized to avoid perpetuation of unbalanced priorities by using percentage adjustments in the Band Analysis.

9. That Banded and unbanded line items be eliminated to permit freedom of expression by Tribal Governments as to its own priorities of work as well as Capital Improvements.

10. That Tribal long Range Plans be utilized in developing annual fund requirements.

11. That Personnel Management and Indian Preference be revised to establish a fair and equitable Indian Career Service recognizing Indian Cultural qualifications on a par with Non-Indian qualifications and equal pay for equal work, and under Self-Determination allow flexibility and provisions to permit selection of properly qualified employees, especially when Tribes are the primary hiring authorities.

12. That Reservation Protection, enhancement and Development be a portion of the Trust Responsibility Contractable to the Tribes with only plan review and approval reserved to the Trustee, where capabilities of the local Tribe is judged qualified according to mutually agreeable criteria.

13. That Educational Opportunities be provided to the American Indians equal to the Non-Indians including vo-tech, Crafts, Academic degrees including professional degrees through scholarship as an entitlement rather than as a supplemental provision to all other aids.

14. That Health Care Standards available to Non-Indians be provided Indians through P.L. 93-638 and P.L. 94-437 being applied strictly according to the intent of Congress, ie. to allow greater Tribal participation in the programming and developing services equal to meet the needs (638), and to meet the normal standards through adequate appropriation prior to the use of special accelerated funds provided under (94-437).

15. That Congressional Review treat significant major subjects of Indian Affairs separately instead of as a single omnibus action of Congress, so Reports, Bills hearings and Tribal review can be specific, deliberate with the capability of acting responsibly to support legislation considered appropriate and oppose legislation considered inappropriate and

BE IT FURTHER RESOLVED THAT:

1. That the recommendations regarding establishment of a separate Department for Indian Affairs be held in abeyance until a complete report of the Activities considered appropriate to consolidate therein and t the Organizational effect on Tribal Governments and the Trust Responsibility be made a separate subject for Tribal Review and recommendations.

2. That Internal Organizational changes of the present BIA Organization of Central Office, Area Offices, and Agencies be a process of evaluation of need and periodic appraisal as to the proper and necessary role to adequately serve Indian Tribes.

Done at a duly held meeting of the Council of the Pueblo of Laguna on April 26, 1977.

Governor

Member of Council

Secretary

Member of Council

CERTIFICATION

I hereby certify that at a duly called meeting of the Council of the Pueblo of Laguna held on 26th day of April, 1977 at which a quorum was present, the foregoing was adopted, 20 voting for and 0 opposed.

ATTEST:

Governor

Secretary

March 23, 1977

Sen. James Abourezk:

This letter is in reference to your membership on the American Indian Policy Review Comm., from which you are submitting a 100 point recommendation list to Congress on May 18th. These recommendations include that indian reservations be considered a type of soverign nation and have the right to tax non-indians & also to try non-indians in tribal courts.

We own and farm 320 acres located one mile inside the boundaries of the so called" Leech Lake reservation in northern Minnesota. Our lands have federal homestead deed titles, and have never been owned by indians. We have no intention whatsoever of ever paying taxes to indians or of being governed by their laws. We are Americans and these federal homestead deeds were granted to us as Americans-- no where does it say the land is part of a reservation and subject to indian law, or being part of a soverign nation as you would have it.

Our fathers and brothers have fought for America to protect all of our rights under the constitution which includes ownership of land, are you now going to spit in their faces and tell us all their fighting and dying was in vain; that you are now going to surrender our rights and privileges as Americans, our land, and everything else we value, and let the indians decide what we will do and not do.

If you are going to set different laws for us, then the federal government is guilty of issuing false or misrepresented deeds of which we purchased in good faith of their soundness, and that of living and being treated like any other American. These deeds state in no way whatsoever that this land would be part of a soverign nation, and be subject to taxes set by indian law and that we, as landowners, would have to be tryed in tribal courts. (In fact, they state the land is ours forever)

If you proceed with subjecting us to indian dictatorship, then the federal goverment is obligated to buy the land that it granted homestead deeds too, that it now says is a reservation. It would have to purchase the land at the going rate, which in our area is $400. per acre plus buildings and improvements. We do not wish to move, when our fathers and grandfathers have farmed this land before us, when this land is legally ours; but if you take away our right to decide our own destiny and replace it with indian rule, then we will have no choice but to require the federal government to ourchase the many, many thousands of acres of land at the rate today's land is selling for. Your only alternative is to make federal homesteaded land exempt from being part of a reservation and part of your recommendations.

An immediate reply is requested as to your decision on our federal homesteaded deeds.

Sincerely,

Dale & Bonnie Lembke

Dale & Bonnie Lembke
Route One
Cass Lake, Mn. 56633

IMPORTANT

We recognize that you may not be able to thoroughly read and evaluate all parts of this Report within the time allowed for comment. However, in order to include your comments in our Final Report, this questionnaire must be completed and returned in the enclosed envelope postmarked no later than April 16, 1977. Our Final Report must be completed by May 15, 1977 for final Commission approval.

NAME Robert J. Livingston ADDRESS 120 Lohman Lane Petaluma, Cal.

TRIBE/ORGANIZATION Northern Cheyenne Chief, Indian Financial Assistance Center Denver, Colo.

A. PLEASE CIRCLE ONE TO INDICATE YOUR IDENTITY AS:

Tribal Chairman	Tribal Governing Body	(Individual Indian)
Member of Congress	Organizational Governing Board	
State Official	Private Citizen	

B. PLEASE EVALUATE THE SECTIONS BY CHECKING THE BLANK WHICH MOST NEARLY REPRESENTS YOUR OPINION.

	Excellent	Good	Poor
The report as a whole is	✓		
I. History	✓		
II. Legal Concepts	✓		
III. Conditions	✓		
IV. Federal-Indian Relations	✓		
V. Tribal Government	✓		
VI. Federal Administration		✓	
VII. Economic Development		✓	
VIII. Social Services		✓	
IX. Off-Reservation			✓
X. Terminated Indians			✓
XI. Non-Recognized Indians			✓
XII. Special Problem Areas	✓		
XIII. General	✓		

C. HAVING READ THE RECOMMENDATIONS AT THE END OF EACH SECTION, PLEASE ANSWER THE FOLLOWING QUESTIONS.

1) Which recommendations should be given priority status? Why? TRIBAL GOVERNMENT CAPACITY BUILDING. THEY MUST HAVE THE CAPABILITY TO PROVIDE THE SERVICES TO THE PEOPLE IN THEIR COMMUNITIES AND EXERCISE THEIR JURISDICTION PROPERLY UNDER THE LAW.

2) Are there recommendations with which you disagree? Why? YES. I DON'T FEEL THAT EDUCATION OR ANY OTHER PROGRAM SHOULD BE AN ENTITY SINCE PROGRAMS TEND TO BE INTERRELATED AND DEPENDANT IN COMMUNITIES, NOT EXCLUSIVE. THEY SHOULD BE COORDINATED MORE, WITH MORE FLEXIBILITY.

3) Are there recommendations you would like to have added? _____

4) Do you feel the content of the report provides an accurate, useful picture of the situation? THIS IS THE MOST COMPREHENSIVE, ACCURATE, USEFUL REPORT IN THE HISTORY OF INDIAN AFFAIRS.

5) Do you have any additional comments? I CANNOT RECONCILE THE MINORITY REPORT WITH THE STATEMENTS OF SUCH LEGAL AUTHORITIES AS FELIX COHEN.

F. SPACE IS PROVIDED ON THE FOLLOWING PAGES FOR YOUR SPECIFIC RECOMMENDATIONS.

NAME Robert Livingston ADDRESS 120 Lehman Lane, Berkeley, Ca.

TRIBE/ORGANIZATION NORTHERN CHEYENNE

RECOMMENDATIONS

Chapter ( ) Page ( ) Paragraph ( )

In ~~the~~ section(s) ~~being~~ ~~under~~ ~~discussion~~ the words "SOVEREIGN"

," it is suggested that the following addition, deletion or change in wording be made, ~~or the following concept expressed~~ ~~differently~~: THE WORD SUZERAIN SHOULD BE SUBSTITUTED FOR SOVEREIGN THROUGHOUT THE TEXT. THE WORD SUZERAINTY SHOULD BE UTILIZED TO EXPRESSED THE POWERS OF TRIBAL GOVERNMENTS TAKEN FROM, OR GIVEN UP BY TRIBES, THEREBY ESTABLISHING THE TRUST RELATIONSHIP AND UNIQUE STATUS OF TRIBAL GOVERNMENTS. THE UNIQUENESS SHOULD BE EXPRESSED IN A COMPARISON TO OTHER LOCAL GOVERNMENTS, AS WELL AS TRIBE BY TRIBE.

Thank you for the opportunity to express my personal point of view on this most historic occasion.

Robert J. Livingston

EDWIN EDWARDS
GOVERNOR

State of Louisiana

EXECUTIVE DEPARTMENT

Baton Rouge

April 19, 1977

Honorable James S. Abourezk
Chairman
American Indian Policy
Review Commission
House Office Building
Annex No. 2
Washington, D. C. 20515

Dear Mr. Chairman:

Thank you for your recent memorandum enclosing a copy of the Commission's "tentative" Final Report. I have reviewed this report and offer the following comments.

The sections concerning off-reservation Indians and unrecognized Indians were found to be the most relevant to Indians of Louisiana.

Concerning off-reservation Indians (Chapter 9), I concur with the recommendations for urban centers, employment, housing, and health.

I also agree with all of the findings, recommendations, and policy needs determined by the Commission relevant to nonrecognized tribes (Chapter 11). I do, however, strongly support immediate federal recognition of all authentic native American tribes, especially the four nonrecognized groups in Louisiana: the Houma Alliance, the Houma Tribe Incorporated, the Jena Band of Choctaws, and the Tunica-Biloxi Tribe.

Again, I appreciate the opportunity for input in the Commission's report.

Sincerely,

EDWIN EDWARDS
EE:bsa

93-440 O - 78 - 28

Arctic Technologic Assistance Corporation
15825 SHADY GROVE ROAD, ROCKVILLE, MARYLAND 20850 Telephone 301 948 7400

April 25, 1977

Mr. Peter Taylor
Indian Policy Review Commission
Washington, D.C.

Dear Mr. Taylor:

Thank you for allowing us the opportunity to respond to the tentative recommendations of the commission. In my opinion the commission has done a spendid job.

In making the recommendations (attached) that the U.S. claim for dominion over the Northern Eskimo people be examined in the light of historic fact, I realize that I have kicked at a hornet's nest, potentially more significant than the claims of the Maine Indians.

While I have the title of "Scientific and Technical Advisor" to the Mayor of the North Slope Borough I have not had time to coordinate these recommendad changes with Mayor Hopson and it is offered to the Commission from myself as a private citizen.

The sponsorship,I think,is of secondary importance to the truth of the statements. In that the Commissions task is to reveal the true nature of U.S. relations with native peoples this recommendation is respectfully submitted for your consideration.

Sincerely,

James H. McAlear, Ph.D.

JHM:dk

Arctic Technologic Assistance Corporation
15825 SHADY GROVE ROAD, ROCKVILLE, MARYLAND 20850 Telephone 301 948 7400

RECOMMENDED CHANGE, Chapter 12.2 Paragraph 3 should read . . . . . .
The treaty under which the United States claimed dominion over Alaska . . . .
The basis for this change is as follows:

1. Russia did not occupy all of Alaska, only some coastal areas as far north as Fort St. Michael. (See P.J. Anderson, Arctic Bulletin, 1973).
2. The Alaskan Arctic was a terra incognita to the European powers but was occupied and defended by a civilization related to those called Mongolian in Asia. These people had no knowledge of claims to their land and recognized none other than themselves as soverign over it.
3. The United States knew that Russia had no more claim to dominion over the Arctic than the U.S. recognition of the claim in an earlier treaty.
4. The United States did not attempt to impose its dominion over the Arctic until World War II and its claim was stale in the same sense as Mr. Meeds feels Indian claims to treaty rights are stale.
5. The Inupiat have continuously questioned U.S. claims to dominion and withdrawal of all lands.
6. The assumption of sovereignity over the Arctic is a prerequisite for all U.S. acts pertaining to that region. Therefore, the validity of acts creating a territory 1912, NPR-4 withdrawal 1923, Statehood 1957 and the Alaska Native Land Claims in 1971 are challenged herewith.

RECOMMENDATIONS:

The exploitation of the Arctic for oil and gas has created extreme socio-economic stress amongst the Inupiat. It has fueled an inflation three times that of the lower 48. Energy related migration of outsiders

will soon innundate the Inupiat making them and impoverished and misunderstood minority in their own lands. The native land claims act has not resolved these problems. It is proper that they should be resolved by a treaty between the U.S. and the Arctic, properly represented by an elected government, the North Slope Borough.

1. This treaty should resolve the ownership of natural resources so that the Inupiat receive a fair share by international standards for their resources.
2. The treaty should provide and affirm all of those rights recognized and accorded to Indian nations to govern, administer justice, tax, restrict residence, regulate hunting and fishing and otherwise determine their own affairs according to their custom.
3. The North Slope Borough when considered as a tribal government should be extended to include the Inupiat in the NANA and Bering Straits regions.
4. The treaty should repair the cultural damage already inflicted on the Inupiat in exchange for access to natural resources. This should include a system of commodity and transportation subsidies and the elimination or aleviation of all state and federal taxes including income taxes.
5. This tready should not terminate any state and federal services already accorded to these people. It should include an inflation compensation increment proportioned to the existing rate of inflation for all state and federal payments.

6. The United States should extend its international policy to the development of relations with Canada and Greenland to permit unimpaired commerce along the Arctic amongst the Inupiat.

DCA MONTANA DEPARTMENT OF COMMUNITY AFFAIRS
Capitol Station, Helena, Montana 59601
Thomas L. Judge
Governor

April 21, 1977

Mr. Ernest L. Stevens, Director
American Indian Policy Review Commission
House Office Building, Annex #2
Second & D Streets, S.W.
Washington, D.C. 20515

Dear Mr. Stevens:

This office has reviewed the Economic Development chapter of the AIPRC Tentative Final Report and would like to submit three recommendations concerning sub-section B (Availability of Investment Capital) for commission consideration. Our three recommendations are as follows:

1. The President direct (by Executive Order) all agencies of the Federal government providing financial or technical assistance to Indian tribes and Indian organizations to formulate a unified policy with the authority to provide funding for profit-oriented organizations which would enhance the economy of Indian people.

2. Financial assistance should be provided to tribes and Indian organizations to establish and develop educational facilities to train potential Indian businessmen in areas of marketing, financing, management, purchasing, and accounting systems.

3. Financial and technical assistance should be given to tribes and Indian organizations in efforts to establish and develop Indian controlled financial institutions to utilize Indian monies currently being invested in non-Indian financial institutions.

We strongly believe that if the above recommendations were implemented, they would improve the economic status, economic independence, and the economic achievement rate of the Indian people and compliment the overall economy of the nation.

93-440 477

Harold A. Fryslie, Director 406/449-3494

We hope the Commission will give our recommendations serious consideration in the process of developing national policies affecting Indian Economic Development.

Sincerely,

Merle R. Lucas
Coordinator of Indian Affairs

/rc

cc: Judy Carlson, Governor's Office
Office of Commerce, Governor's Office
Tom Thompson, Director, Federal Programs
Harold Fryslie, Director, DCA

national association of counties
1735 new york avenue, n.w., washington, d.c. 20006 (202) 785-9577

Helena, Montana
April 27, 1977

The Honorable James Abourezk
Chairman, American Indian Policy Review Commission
Congress of the United States
House Office Building, Annex #2
Washington, D. C. 20515

Subject: NACo Comments on the American Indian Policy Review Commission Report.

Dear Mr. Chairman:

County governments have the capacity and willingness to represent and provide services to all citizens within their boundaries.

Without consultation with county governments the American Indian Policy Commission has made findings and recommendations that raise serious questions about the relationship of counties and tribal councils. NACo is especially concerned about the principle proposed by the Commission for Federal policy that states:

> "The ultimate objective of Federal-Indian policy must be directed toward aiding the tribes in achievement of fully functioning governments exercising primary governmental authority within the boundaries of the respective reservations. This authority would include the power to adjudicate civil and criminal matters, to regulate land use, to regulate natural resources such as fish and game and water rights, to issue business licenses, to impose taxes, and to do any and all of those things which all local governments within the United States are presently doing."

The Commission report further states that: "The growth and development of tribal government into fully-functioning governments necessarily encompasses the exercise of some tribal jurisdiction over non-Indian people and property within reservation boundaries."

Conflict and changes in Federal Indian affairs and policies have resulted in a substantial number of non-Indians living or owning land on Indian reservations

and since there exists in most of the same areas, county governments, the proposed Commission policy raises the following questions:

1. How would a tribal government constitutionally represent all of the citizens within its boundaries as now represented by county government if only tribal members are allowed a voice or vote in tribal government?

2. How would the extent of tribal jurisdiction be determined where no Federally recognized reservation boundaries now exist?

3. How would due process of law be effectively and realistically guaranteed to all citizens within a tribal court system similar to a county-state court system?

4. How would land use planning and zoning powers be administered on an equitable basis to all citizens, Indian and non-Indian alike?

5. How would regulation of water rights and the distribution thereof be fairly administered?

6. How would national, state and local air, water and other environmental quality standards be administered and enforced?

7. How would all categories of taxes be imposed fairly and equitably upon all citizens? Would non-tribal members be taxed without representation? Would tribal members be taxed who are now exempt from state and local taxation?

Although this task force has not had an adequate opportunity to review both majority and dissenting reports, many of the questions and concerns of counties have been expressed in the dissenting views of the Commission. Congress must provide an equal vehicle for the expression of county views including on-site Congressional hearings.

The potential impact of the Commission recommendations on county government cannot be overstated. Before Federal Agency or Congressional action is contemplated for implementation of any of the Commission's recommendations, county government must be given an adequate opportunity to be heard. It is imperative that county governments be included as a full partner in any Federal-State-Indian efforts to resolve these questions. These efforts would require cooperation, communication and education at the local level.

This Task Force stands ready to assist in these efforts.

Sincerely,

Fred Johnson

Fred Johnson, Chairman
NACo Task Force on Indian Affairs

William H. Veeder
Attorney at Law
818 - 18th Street, N.W., Suite 920
Washington, D. C. 20006
(202) 466-3890

LETTER OF TRANSMITTAL

The Honorable James Abourezk, Chairman
Select Committee on Indian Affairs
United States Senate
Washington, D.C. 20515

27 May 1977

ATTENTION: Ernest L. Stevens

Dear Senator Abourezk:

As requested by you, I have carefully reviewed the Tentative Final Report of the American Indian Policy Review Commission, hereafter referred to as "The Majority Report." Because of the vast array of crucial subject matter embraced within "The Majority Report," I have limited my comments to those which I perceive to be the most crucial. These topics under discussion relate to the inherent sovereign power of the tribes dating from time immemorial; tribal ownership of the lands from time immemorial; tribal power under sovereign authority to administer those lands and appurtances; and the trust obligation of the United States of America.

An in-depth review was made of the Separate Dissenting Views of Congressman Lloyd Meeds, D-Wash., Vice Chairman of the American Indian Policy Review Commission, hereafter referred to as "The Dissent." As will be observed in my comments, I find no merit in the law which was presented and relied upon in "The Dissent." Due to the sharp attack on the Winans and Winters cases, I have attached, to my comments entitled "'The Majority Report' Vis-a-Vis 'The Dissent,'" a memorandum entitled "An Analysis of Proposed Secretarial Rules Respecting 'The Use of Water on Indian Reservations' and the Recommended Rejection of them." This paper was prepared for the National Congress of American Indians. I believe that the comments on "The Majority Report" and "The Dissent" should be read on the background of that "Analysis." Both "The Dissent" and the "Analysis" are reflective of a concerted effort inside and outside of the Federal Government to: 1) denigrate the inherent sovereign power of the tribes to administer their own properties; and 2) attack the concepts of Winans and Winters as enunciated by the Supreme Court.

You are to be greatly commended for the general excellence of "The Majority Report." I sincerely hope that my comments will be of assistance to you.

Sincerely,

William H. Veeder

WHV:car

MEMORANDUM

TO

SENATOR JAMES ABOUREZK, CHAIRMAN

SELECT COMMITTEE ON INDIAN AFFAIRS

RELATIVE TO

"THE MAJORITY REPORT"

VIS-A-VIS

"THE DISSENT"

William H. Veeder
May 1977

TABLE OF CONTENTS

INTRODUCTION 1

A. Conflicts of Interest have been Institutionalized in the Interior Department and Lands Division of the Department of Justice. 2

B. Immediate Executive Action Can and Must be Taken. 3

C. Summary of "The Majority Report" Conclusions Respecting the Inherent Sovereign Authority of American Indian Nations and Tribes. 7

D. Rejection by "The Dissent" of "The Majority Report's" Evaluation of Indian Sovereignty. 7

Evaluation of "The Dissent's" Position Relative to Indian Tribal Sovereignty — It is without Merit. 8

a. There is no merit in the assertion, expressed by "The Dissent," "... that American Indian tribes lost their sovereignty through discovery....". 12

b. There is no merit to the assertion in "The Dissent" "... that Indian tribes lost their sovereignty... through... conquest....". 16

c. There is no merit in the assertion expressed by "The Dissent" "... that American Indian tribes lost their sovereignty by... cession....". 18

d. There is no merit in the assertion in "The Dissent" "... that American Indian tribes lost their sovereignty by... statutes....". 21

e. There is no merit in the assertion in "The Dissent" "... that American Indian tribes lost their sovereignty by... history.". 25

f. There is no merit separately or in the aggregate, as expressed in "The Dissent" "that American Indian tribes lost their sovereignty through (1) discovery; (2) conquest; (3) cession; (4) treaties; (5) statutes; and (6) history.". 26

E. "The Majority Report" Correctly Declares that the American Indian Tribes, by their Treaties, Reserve to Themselves, Title to their Lands, Rights to the Use of Water, and Other Resources, which were not Conveyed by Treaty, Agreements or Otherwise. 27

F. The American Indian Nations and Tribes, by their Treaties, Retain — In the Exercise of their Inherent Sovereign Powers — All of their Ancient Homelands and Appurtenant Properties They did not Grant to the United States by their Treaties. 28

1. The Winters Decision Must Be Read with the Winans Decision If the Magnitude of the Errors in "The Dissent" are to be Fully Comprehended. 37

2. Reaffirmance and Reiteration of Concepts of Winans Dispels Any Merit which might otherwise by Attributed to "The Dissent" Relative to the Retention by the Tribes of Properties Not Granted to the United States. 40

3. Attempts by "The Dissent" to Denigrate the Supreme Law of the Land Must Fail. 42

4. A Non Sequitur in "The Dissent" Demonstrates the Paucity of Authority in Support of It. 44

5. "This Nation's Trust Responsibility Rejected by 'The Dissent'". 48

G. Congress Cannot Do It All — Plenary Power Has Its Limitations. . . 58

1. Deficiencies in Executive Action. 58

a. Executive Abridgement of the Winans-Winters Concepts. . . . 59

b. Vitiation of the Congressional Will as Enunciated in the "Self-Determination" Act, 25 U.S.C. 450 Et Seq. 61

2. Immediate Presidential Action Paralleling and Implementing "The Majority Report" is an Imperative Necessity. 63

* * * * * * * * * * * * *

MEMORANDUM

TO

SENATOR JAMES ABOUREZK, CHAIRMAN

SELECT COMMITTEE ON INDIAN AFFAIRS

RELATIVE TO

"THE MAJORITY REPORT" */

VIS-A-VIS

"THE DISSENT" **/

William H. Veeder

INTRODUCTION

> "The most basic of all Indian rights, the right of self-government, is the Indians' last defense against administrative oppression.... Self-government is thus the Indians' only alternative to rule by a government department." 1/

The American Indian Policy Review Commission must be highly commended for the "Tentative Final Report," hereinafter referred to as "The Majority Report." It was submitted for review and comment.

It is essential here to emphasize that "The Majority Report" is an historic event. Its content, background, and documentation effectively demon-

---

*/ "The Tentative Final Report" to the majority of the American Indian Policy Review Commission.

**/ Separate Dissenting Views of Congressman Lloyd Meeds, D-Wash., Vice-Chairman of the American Indian Policy Review Commission.

1/ Handbook of Federal Indian Law, Felix S. Cohen, Ch. 7, "The Scope of Tribal Self-Government," pg. 122.

strate the breadth and intensity of the work which has been completed. It is reflective, moreover, from the hearings held by the Commission, that the American Indians have themselves set forth with specificity their appraisal of Indian affairs in the United States as they perceive them in the closing years of the Twentieth Century.

From "The Majority Report," there emerges these undeniable facts:

> There exists today, a formidable body of Constitutional, legislative and decisional law which is highly favorable to the American Indian people. That broad area of jurisprudence should have been utilized for the great betterment of the Indians. It has, however, been distorted and suppressed by an intransigent, deeply entrenched and suppressive bureaucracy in the Department of the Interior. Relative to that formidable body of favorable law, these salient facts are apparent from "The Majority Report."

A. Conflicts of Interest have been Institutionalized in the Interior Department and Lands Division of the Department of Justice

Contained in "The Majority Report" is the fact that conflicts of interest in the Office of the Secretary of the Interior and the Attorney General of the United States, acting through the Land and Natural Resources Division of the Department of Justice, have been institutionalized in a manner that shocks the conscience.

Congress, predicated upon the information contained in "The Majority Report" and the vast record upon which reliance can be placed, can force radical changes within the Interior Department and Lands Division, which agencies very largely control the day-to-day administration and the litigation involved in Indian affairs.

There can be gleaned from "The Majority Report," not only the recommendations which it contains, but, moreover, the tone and temper of the administration of Indian affairs which can best be described as grossly inadequate. Equally clear, moreover, are these facts:

1. Corrective action relative to Indian affairs is an imperative necessity which can and must be taken without further legislation.

2. That corrective action demands that the governing bodies of the American Indian nations and tribes be fully implemented and utilized to eliminate the wasteful practices, both as to human rights and funds which now transpire as a matter, apparently, of policy.

3. Equally clear is the fact that the institutionalized conflicts of interest have been, and are now resulting in violation of the rights of the American Indian, individually, and confiscating their property rights, both collectively and individually.

4. Congress should proceed forthwith to develop appropriate legislation for the removal of Indian affairs from the Department of the Interior and to establish an independent agency for Indian affairs.

B. Immediate Executive Action Can and Must be Taken

Immediate Executive action to eliminate present practices in the Interior Department and Lands Division of the Department of Justice must be taken forthwith. For example, the Bureau of Reclamation, working in close conjunction with special interests outside of the Federal Government and with or through the Solicitors Office and Lands Division, has been violating not only the Indians' right for representation by counsel of their own choosing,

but likewise confiscating the Indian rights for the benefit of non-Indian purposes and projects. It can be demonstrated, and an opportunity should be provided to demonstrate it, that federal reclamation projects are today being built through the presentation of grossly misleading hydraulic data and other technical information. Those data have been deliberately prepared to represent, to Congress and to the Nation, that there are sufficient water supplies for reclamation projects, when, in truth and fact, the operation of those projects is dependent upon the violation of Indian Winters rights to the use of water. Those projects include, but are not limited to, the Central Arizona Federal Reclamation Project, the San Juan-Chama Federal Reclamation Project, and the Central Utah Federal Reclamation Project. It is submitted that the data relied upon and the action taken in regard to the misrepresentation of facts by officials in the Interior Department are corruptive in character and demand full exposure, antecedent to permitting those projects to go forward to completion. Otherwise, the Indian tribes in the watersheds, where those projects are situated, will be sacrificed for the special interests that sponsor those projects, which special interests are virtually inseparable from the Bureau of Reclamation.

Additionally, corrective action must be taken to preclude federal lawyers in the Solicitors Office and Lands Division from acting without authorization from the Indian nations and tribes. Frequently, lawyers from those agencies, without Indian knowledge, acquiescence, consent or approval, advocate legal concepts which are contrary to Indian interests. Very often, the actions taken by those lawyers are clearly at variance with the laws, either as expressed by Congress or as set forth in the various decisions upon which those lawyers rely.

Clearly, the Solicitors Office and the Lands Division are the cutting edge of special interests, who greatly enrich themselves by either poor representation by federal lawyers or actual omission of effective presentation by them. Indeed, it can be said, without serious challenge to the contrary, that, as in the Walton and Bel Bay cases reviewed in the attached analysis, the Solicitors Office and Lands Division are aggressive advocates for non-Indian interests against the Indian people.

There resides in the Executive Branch of the Government, at the present time, both the power and the absolute obligation to take corrective action in regard to the conduct of the Solicitors Office and Lands Division. President Carter, on April 6, 1977, signed into law the broad powers conferred upon him by the Congress of the United States to reorganize the Executive Branch of the Government. By acting now, to protect the Indians against the invasions of their property and human rights, as outlined above, he would be implementing his program to protect human rights. It is possible now to eliminate the shameful pattern that has developed down through the years in which the Solicitors Office and Lands Division have proceeded in disregard of the Constitutional and civil rights of the American Indian nations and tribes to have counsel of their own choosing.

There is attached to this memorandum and made a part of it "An Analysis of Proposed Secretarial Rules Respecting the 'Use of Water on Indian Reservations' and the Recommended Rejection of them," which was prepared for and distributed by the National Congress of American Indians. Contained in that memorandum is a clear exemplification of the pressing and imperative need for corrective action in the Solicitors Office of the Interior Department and in Lands Division to halt and to prevent the suppressive and destructive conduct of those federal lawyers. Being immersed in conflicts of interests, those lawyers are daily acting to the

irreparable damage of the American Indian people, all as spelled out with specificity in the accompanying Memorandum alluded to in this paragraph.

II. "THE MAJORITY REPORT" VIS-A-VIS "THE DISSENT"

Very markedly, this analysis turns upon the basic propositions expounded in "The Majority Report" and the attacks upon those concepts which are espoused by "The Dissent." That attack upon "The Majority Report," as set forth in "The Dissent," has delineated the principal areas of conflict in the Indian and non-Indian communities. In that regard, it is observed in passing that "The Dissent" has performed a great service. It has squarely presented the question of whether the predominant, non-Indian community views itself as a conquering, suppressive force intent upon destroying the American Indian nations and tribes. It is respectfully suggested that the large percentage of non-Indians do not subscribe to the vindictive conqueror as outlined in "The Dissent." Rather, they proceed upon the basis that all men are truly created equal. By reason of that fact and the special circumstances which exist in regard to the American Indian nations and tribes, the respect for human dignity will preserve, protect and nurture the powers of inherent self-government that the Indians have exercised since time immemorial. Moreover, it is likewise respectfully submitted that the average non-Indian subscribes -- if he has knowledge of it -- to the concept that this Nation owes to the American Indians a trust responsibility, which should and must be performed within the concepts of the Constitution as it has been construed.

Due to the magnitude of "The Majority Report" and the principal attacks upon it, as set forth in "The Dissent," it has been determined that this commentary will be limited to two (2) major aspects:

1. The inherent sovereign authority of the American Indians and tribes to govern their own affairs extends far beyond the present activities that are being performed by them in the exercise of those sovereign powers.

2. The American Indian tribes, whether "treaty" or non-treaty Indians, hold full, equitable title to their reservations and to their rights to the use of water and other appurtenances to those reservation lands. Under their treaties, those lands and appurtenances were reserved by the tribes. Those properties were not granted by the tribes to the United States, but rather, were retained by the tribes as part of all which they did not grant pursuant to their inherent sovereign powers.

C. Summary of "The Majority Report" Conclusions Respecting the Inherent Sovereign Authority of American Indian Nations and Tribes

Succinctly stated, the predominant conclusions of "The Majority Report," relative to the inherent sovereign powers of the American Indian nations and tribes, are as follows:

1. The Indian nations and tribes have inherent powers which spring from time immemorial, antedating "discovery," and those powers are not conferred upon the tribes by any grant of authority from the Federal Government. That power, moreover, extends not only to Indians within tribal jurisdiction, their lands and other properties referred to in (2.) above, but of necessity, extends to non-Indians within that jurisdiction or the power of the tribes to administer the lands within the reservation would be totally vacuous.

2. American Indian nations and tribes are not "federal instrumentalities." The Federal Government has, moreover, historically recognized the sovereignty of Indian tribes and has historically utilized the tribes in carrying out this Nation's policy relative to Indian affairs.

D. Rejection by "The Dissent" of "The Majority Report's" Evaluation of Indian Sovereignty

With sharp vehemence, "The Dissent" rejects, out of hand, the concepts adopted by "The Majority Report" relative to sovereign authority of Indian tribes

and to their powers to govern. Explicitly and in unequivocal terms, "The Dissent" views the American Indian nations and tribes as conquered people without any authority, absent that conferred upon them by the Congress. Moreover, there is an express denial and a caveat as to reprisal should Congress admit tribal jurisdiction over non-Indians. Similarly, "The Dissent" rejects any suggestion that the Congress might "confer" jurisdiction upon the tribes over non-Indians within the jurisdiction of the tribal governing body.

Evaluation of "The Dissent's" Position Relative to Indian Tribal Sovereignty -- It is without Merit

Attention must be directed to the crucial contentions of "The Dissent" for the purpose of refuting the basic premise relied upon in that dissent which challenges the concepts of "The Majority Report" relative to Indian tribal sovereignty. Reference in that connection is made to this initial and principal heading in "The Dissent": "I. TRIBAL SELF-GOVERNMENT V. TRIBAL SOVEREIGNTY, THE FORMER A LEGAL DOCTRINE, THE LATTER A POLITICAL SLOGAN." 2/ There is thus well-defined in capsule form the rationale of "The Dissent," wherein it is explicitly stated in clear error that:

> "The doctrine of inherent tribal sovereignty, adopted by the Majority Report, ignores the historical reality that American Indian tribes lost their sovereignty through [i] discovery, [ii] conquest, [iii] cession, [iv] treaties, [v] statutes and history."

In support of that conclusion, there are cited three sources. 3/ As to the first authority that is cited, extended comment is not required. Manifestly, the report of the Arbitration Tribunal did not and could not constitute binding authority

---

2/ The Dissent, pg. 1.

3/ The Dissent, pgs. 4-5. Cayuga Indian Claims (Great Britain v. United States), 20 AM. J. Int'l L. 574, 577 (1926)(American and British Claims Arbitration Tribunal) and the cases of Johnson v. McIntosh, 21 U.S. 543, 574 (1923); Cherokee Nation v. Georgia, 30 U.S. 1, 17 (1831).

on anyone except those immediately involved. Reliance cannot be placed upon that reference as authority for which it is cited by "The Dissent."

As to McIntosh and Cherokee Nation, Supreme Court decisions, repeated references will be made to them and their inapplicability will be emphasized. Irrespective of the absence of authority to support the declaration as to how the American Indian nations and tribes allegedly "lost" their tribal sovereignty, there follows, in "The Dissent," this statement:

> "... To the extent American Indian tribes are permitted to exist as political units at all, it is by virtue of the laws of the United States and not any inherent right to government, either of themselves or of others." 4/

No further authorities are cited in "The Dissent" for the sweeping assertion as to the loss of sovereign power by the tribes.

The issue of Indian sovereignty is far from academic. Do Indian tribes have authority which exists independent of the National Government, which tribal authority is derivative of the Indian forebearers who exercised those powers of government from time immemorial? It is a matter of crucial importance. On the subject to those who would recognize tribal sovereignty over non-Indians, "The Dissent" has this to say, albeit the threatening caveat is purportedly limited to Congress:

> "... if Congress should ever think it wise to give Indian people experience in government by letting them practice on non-Indians, I predict we would be swiftly set straight by the vast majority of our constituents." 5/

4/ Id.

5/ The Dissent, pg. 11.

Basically — and "The Dissent" says realistically — it is essential for the American Indian nations, tribes and people and those who support them to assess the wisdom of adopting "The Majority Report" due to "The Dissent's" implicit threat of backlash by non-Indians, the dominating society. "The Dissent" presents the United States as a cruel, harsh and suppressive conqueror. I reject that savage comment out of hand. The very wellsprings of this Nation are human rights, dignity and the right of property owners, such as the Indians, to be free from confiscation of their properties. Nevertheless, the rationale, tone and temper of "The Dissent," as stated, are harsh and cruel. It ignores the formidable and highly favorable body of law, to which reference has been made, that supports and continues to support, the Indian nations and tribes in their desire for an expanding exercise of the inherent powers of the tribes. Indian sovereignty is, and has been from time immemorial, imbued in the tribal history and the history of the National Government. It must be recalled that the tribes were of vast importance during the War of Independence in which the thirteen colonies sought to achieve their own sovereignty by throwing off the oppressive power of the King of England. It is important to bear in mind the fact that the leaders of the revolution against King George were brave men, but they were not foolhardy. As stated in Worcester: The Continental Congress,

> "Far from advancing any claim to their [Indian] lands, or asserting any dominion over them, Congress resolved, 'that the securing and preserving the friendship of the Indian nations appears to be a subject of utmost moment to these colonies.'" 6/

As pointed out in Worcester, "... the colonists had great cause for apprehension,

---

6/ Worcester v. Georgia, 31 U.S. 515, 372, 572 (1832).

that the Indian nations [during the Revolutionary War]..." would join Great Britain as allies and "add their arms to hers." It was then emphasized, by Justice Marshall, who had personal knowledge of the matter, "far from advancing a claim to..." Indian lands or seeking to exercise jurisdiction over those lands or the Indians whose ownership and sovereignty were recognized by the colonists, the rebellious colonies were most anxious to secure the assistance in their war with Great Britain. At this late date, when the dominant party is now the non-Indian, the role of the Indian nations in the Revolutionary War and the fact they did not in the majority "add their arms" to Great Britain should, in thanksgiving, be remembered.

It would be well, also to remember, that the first treaty the embattled colonists entered into with the Indian tribes was while the Revolutionary War was in progress and, indeed, the outcome was very much imbalance. It was the Delaware Indian Nation that the colonists sought to negotiate with and did consummate a treaty. A reading of that treaty will evidence this fact: The colonists, exercising their newly claimed sovereignty, treated the Delaware Indian Nation as an equal, requesting that Nation to join them against the common enemy, George III. Thus the first American Indian treaty came about under circumstances where there was no bombast, no cruel and harsh suppression of the Delaware Indian Nations such as "The Dissent" would now recommend as a course of policy. Rather, it is historically true -- and vast important to this Nation -- that the sovereign Indian tribes could have joined with Great Britain and could have precipitated a disaster to this Nation that did not transpire. That predicate and the consideration of it are certainly the legal basis for asserting the trust relationship this Nation owes to the Indian nations and tribes. It is suggested in "The Dissent"

that ingratitude is the greatest sin of all and that is the sin committed by "The Dissent," not only against the American Indian tribes, but against the memory of those who founded this Nation.

It will be on that background that the consideration will be given to the basis upon which "The Dissent" declares that American Indian nations and tribes lost their sovereignty and the predicate upon which that conclusion is expressed in "The Dissent."

a. There is no merit in the assertion, expressed by "The Dissent," "... that American Indian tribes lost their sovereignty through discovery...." 7/

Reject out of hand that assertion in "The Dissent" that "discovery" in some manner destroyed tribal sovereignty. At the outset, it would be well to consider this question: What is meant by discovery? History tells us that "discovery" occurred in 1497 when Cabot sailed south down the Atlantic Coast of the North American Continent to the present State of Virginia. That adventurer viewed — or said he did — that he had beheld the vast land mass, which was later to be determined to be the North American Continent. Having done so — looked at it — he claimed it for King Henry the VII of England. History also tells us that one hundred years would elapse before a concerted effort would be made by England to enter upon the Continent with the objective of permanent residence. 8/

In support of this fiction that "discovery" destroyed tribal sovereignty, "The Dissent" cites Johnson v. McIntosh. 9/ Yet, that case does not state anywhere

---

7/ The Dissent, pgs. 4-5.

8/ See 1 Bancroft, History of the United States, pg. 8 et seq.; see Worcester v. Georgia, 31 U.S. 350, 368 (1831).

9/ The Dissent, pg. 5, 21 U.S.C. 543, 574 (1823).

that the Indians lost their tribal sovereignty. What it does say is that among the potentates of Europe, the Nation having discovered a tract of land on the North American Continent — due to its magnitude, there was enough for everyone — there would be no violation of one potentate's "discovery" as against another potentate's "discovery." Moreover, the potentates, among themselves, like the Solicitors Office and Lands Division, did not consult the Indians — but, decided that Indian nations and tribes could not sell their lands to any potentate but the one who had made discovery. It is difficult to perceive how the far off empires of Europe could or did destroy the sovereignty of the Indian tribes without the knowledge of the tribes. That there was an effect upon the inherent and immemorial title that resided in the Indian nations and tribes, which occupied the North American Continent, is undeniable. There was not a destruction of the inherent power of the tribes to govern themselves, whatever the consequences were relative to title. Throughout "The Dissent," there is a failure to comprehend the difference between the power of self-government and the title to land. "The Dissent" flounders badly in its attempt to denigrate tribal sovereignty. That issue will be subsequently reviewed, but at this point, it suffices to state that sovereignty means the power to govern. It likewise means the power to own property. But rest assured that sovereignty does not emanate from the ownership of land, nor is there any authority which would support the mistaken concept that, in some manner, sovereignty emerges from the land occupied by the tribes.

Rather than denying tribal sovereignty, the McIntosh decision repeatedly and throughout makes reference to the continual existence of the tribal governments and that existence was recognized by the great powers of Europe. Later, and down to

date, tribal sovereignty has been and is recognized by the United States of America. Bear in mind the United States entered into 400 treaties with the tribes and many of those treaties are, in force and effect, a part of the Supreme Law of the Land.

Reliance is likewise placed in "The Dissent" upon Cherokee Nation to support the concepts that the fiction of "discovery" destroyed tribal sovereignty, as urged by "The Dissent." Again, a reading of Cherokee Nation makes short shrift of the contentions contained in "The Dissent." 10/ Involved there was the question of whether the Cherokee Nation came within the purview of the provisions of the Constitution which confers original jurisdiction upon the Supreme Court involving "... controversies between a state... and foreign States...." 11/ To the Cherokee Nation, the Supreme Court said, "no." It stated the Cherokee Nation did not come within the category of "foreign States," as contemplated in the quoted excerpt from the Constitution. It is instructive, however, to read the first pages of Cherokee Nation better to understand both the meaning of the term sovereignty as used in "The Majority Report" and the implications flowing from that term as there used. Similarly, it must be acknowledged by whoever wrote "The Dissent" that Worcester v. Georgia was decided the year immediately following the Cherokee Nation. In Worcester, the full extent, nature and character of Indian tribal sovereignty are reviewed in detail. 12/ It is also worthy of note that Worcester was rendered eight (8) years subsequent to McIntosh and most assuredly there was no attempt in Worcester to reverse McIntosh. Yet, as stated, Worcester defines, delineates and

---

10/ Cherokee Nation v. Georgia, 31 U.S. 1 (1831).

11/ Constitution of the United States, 1787, Article III, Section 2.

12/ See Worcester v. Georgia, 31 U.S. 515, 558, 560-561 (1832).

declares the vitality and existence of Indian inherent tribal sovereignty in terms, which are today, viable and applied by decisions rendered most recently by the Highest Court. 13/ Let those who prepared "The Dissent" and those who support it bear in mind that Indian tribal sovereignty was recognized — albeit modified — in Johnson v. McIntosh. That is the concept of "The Majority Report." Cherokee Nation, is likewise relied upon in declaring that "discovery" destroyed Indian tribal sovereignty. That is error. Reliance upon those cases, indeed, reliance upon the concept that "discovery" in some manner destroyed Indian tribal sovereignty is gravely in error for these reasons of decisional precedent: One year after Cherokee Nation; nine years after Johnson v. McIntosh, the Supreme Court rendered the decision of Worcester v. Georgia. In these terms, explicitly and unequivocally, the Highest Court decided as follows:

> "The very term 'Nation,' so generally applied to them [Indian Nations], means 'a people distinct from others.' The Constitution by declaring treaties already made, as well as those to be made, to be the Supreme Law of the Land has adopted and sanctioned the prior treaties with Indian Nations, and consequently admits their rank among those powers who are capable of making treaties." 14/

It is impossible to perceive, with reason, how "The Dissent," confronted with the 1832 decision in Worcester, could sensibly advance the idea that "discovery," which had occurred 345 years antecedent to Worcester, could have, in some manner, destroyed Indian sovereignty. I, moreover, reject the concepts found in "The Dissent" that the American and British Claims Arbitration Tribunal, a most limited arrangement, could reverse Worcester and in some unexplicable manner effect the

---

13/ See McClanahan v. Arizona, 411 U.S. 164, particularly on pgs. 168 et seq. (1973).

14/ Worcester v. Georgia, 31 U.S. 515, 558, 560-561 (1832).

Indian sovereignty involving nations and tribes which were in no way involved in that "arbitration." What the citation, in "The Dissent," does is this: There is a dirth, a paucity of legal precedent to support the statement contained in "The Dissent," that "discovery" caused the Indian nations and tribes to lose their sovereignty.

b. There is no merit to the assertion in "The Dissent" "... that Indian tribes lost their sovereignty "... through... conquest...." 15/

The fiction of "discovery," as a factor in the alleged destruction of Indian tribal sovereignty, based upon McIntosh and Cherokee Nation, comes within the category of the grave mistakes set out in "The Dissent." Equally clear is the fact that "conquest" did not destroy Indian tribal sovereignty. It is urged that the cases of McIntosh and Cherokee Nation be thoroughly considered by anyone who relies upon "The Dissent" as authority. Repeatedly in McIntosh, the fact that the Indian nations were exercising sovereignty was recognized by the European empires who were invading the North American Continent; it was a factor that had great influence upon the United States in its formative years. Reasons in McIntosh are given why Indian tribal sovereignty was a reality. Among those reasons, as stated in McIntosh, is this: The Indian nations and tribes were "Fierce and warlike in character...." They were jealous of their freedom as nations and being "... Fierce... to govern them... was impossible... [for] they were ready to repel by arms every attempt at their independence." 16/ Indeed,

---

15/ The Dissent, pgs. 5-6.

16/ Johnson v. McIntosh, 21 U.S. 543, 590 (1823).

to avoid clashes with the Indian nations and tribes, we are instructed by McIntosh, that France, Spain, Great Britain, and later the United States, at the time of McIntosh and antecedent to that time, refrained from asserting "... claims to their lands, to dominion over their persons...." 17/ So it is that conquest, at the time of Worcester, had not destroyed the Indian tribal sovereignty.

How Cherokee Nation could be relied upon to support the concept in "The Dissent" that the tribes had lost their sovereignty by "conquest" is difficult to perceive. In describing Cherokee Nation, correctly and realistically — not chauvinistically — Justice Story, in his famous Commentaries on the Constitution, said this:

> "Upon solemn argument, it has been held, that such a tribe is to be deemed politically a State; that is, a distinct, political society, capable of self-government; but is not to be deemed a foreign State, in the sense of the Constitution...." 18/ [Emphasis]

There should be rejected out of hand, the assertions that "conquest" destroyed Indian tribal sovereignty, by reason of any ruling in either McIntosh or Cherokee Nation, or indeed, the arbitration reference, the precedential nature of which must of necessity be most doubtful.

17/ Worcester v. Georgia, 31 U.S. 350, 571 (1832).

18/ 2 Story, On the Constitution, Fifth Edition, Section 1101, pg. 44.

c. There is no merit in the assertion expressed by "The Dissent" "... that American Indian tribes lost their sovereignty by... cession...." 19/

A most careful consideration has been given to the treaties entered into during and subsequent to the Revolutionary War and down to the time that this Nation ceased, in 1871, to enter into treaties, substituting agreements and other arrangements which are tantamount to treaties. Throughout those treaties, there were cessions of property made by the Indian nations and tribes to the United States. Those treaties — some of them were shameful, others unfortunate — all involved an exercise of Indian tribal authority. The United States, as a party to the treaties, of necessity recognized tribal sovereignty. To some, this Nation perpetrated a gigantic hoax upon the Indian people by those treaties. I will not attribute such amorality to the United States of America. I reject that concept. It is impossible to believe that the Chief Executive, in the exercise of the powers invested in him by the Constitution and the Senate of the United States, would sink to the level of invoking the Supreme Law of the Land while perpetrating a hoax, not only upon the Indian nations and tribes involved, but on the citizenry of the United States, who are very serious about their fundamental law — the Constitution. 20/

Cession means, as it must mean in the context of "The Dissent," the assignment of a right or claim, "a transfer usually evidenced by a treaty

---

19/ The Dissent, pgs. 4 and 5.

20/ In regard to the dignity of American Indian nations and tribes, it is recommended that those who support "The Dissent," indeed, those who wrote it, should consider these excerpts from our fundamental law: In the Constitution of the United States, Article II, Sec. 1, provision is made as follows: "The Executive Power shall be vested in a President of the United States of America...." Section 2: "The President shall be the Commander-in-Chief of the Army and Navy of the United States....

of sovereignty over territory of one sovereign state to another, apparently willing to accept it." 21/ Throughout this Nation's history, cessions of property have been made to it — and it has indeed likewise ceded property. Yet, those cessions all involving sovereignty, some of them being reciprocal in nature, did not in any sense impair the sovereignty of this Nation or those with whom it covenanted. Neither did it impair the sovereignty of the Indian nations which were the concessioners of lands to which they had previously asserted a valid claim. That principle has been applied throughout this Nation's history and throughout the history of the Supreme Court. Reference in that connection is made to McIntosh. It is emphasized, irrespective of the shameful concepts imposed upon Indians by the potentates of Europe, that they could not transfer title. It was, nevertheless, recognized, by the Supreme Court in the case in question, that they could only be deprived of their interest in the lands from time immemorial by treaty, purchase or, indeed, the brutality of conquest.

Suggested reading, to the authors of "The Dissent," is the first Indian treaty entered into between the United States and an Indian nation while the

---

20/ (continued) He shall have power, by and with the Advise and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur...."

Cognizance must be taken of the fact that cession did not, indeed, could not, under the circumstances of the Indian treaties, destroy sovereignty because sovereignty was invoked to make the cessions respecting territory. There is not a treaty where the entire sovereign authority, as stated by "The Dissent," was "lost."

21/ Webster's Third International Unabridged Dictionary.

93-440 O - 78 - 31

colonists were in the bitter struggle for independence during the Revolutionary War. That treaty, in explicit terms, recognized the Delaware Nation and this Nation as acting as equal sovereigns. 22/ It is reiterated that, prior to the Constitution, and now, this Nation recognizes the inherent sovereign power of the Indian nations.

Subsequent Indian treaties did not obliterate the sovereignty of the Indian tribes; rather, they established and recognized the Indians had the sovereign rights to enter into the treaties. It is worthy of note that when Congress declared — unilaterally — that "No Indian nation or tribe within the Territory of the United States shall be acknowledged or recognized as an independent nation, tribe or power with whom the United States may contract by treaty...." there was added this extremely important proviso which is effective today:

> "But no obligation of any treaty lawfully made and ratified with any such Indian nation or tribe prior to March 3, 1871, shall be hereby invalidated or impaired." 23/ [Emphasis supplied]

By that proviso, there was continued recognition by the Congress of the United States that the tribes had exercised their sovereign powers — inherent from time immemorial — to enter into covenants and agreements with this Nation. Those covenants and agreements were, and are, part of the Supreme Law of the Land.

22/ Treaty with the Delaware Nation, Act of September 17, 1778, 7 Stat. 13.

23/ 25 U.S.C. 71.

Full impact of that statute has never been finally determined. But, there is a finality to it: There were approximately 400 treaties in existence in 1871, when the Congressional Act became law. Their sovereignty continues as of this moment and it is a shocking concept advanced by "The Dissent" to say that the sovereignty of the tribes, who entered into treaties, could, in some way, be destroyed by the cessions which were usually contained in those covenants.

d. There is no merit in the assertion in "The Dissent" "... that American Indian tribes lost their sovereignty by... statutes...." 24/

There has been reviewed above, the fact that by explicit terms the Congress of the United States has, in effect, ratified and approved innumerable treaties signed by Indian nations and tribes with the National Government. In so doing, there has been confirmed by the Congress the fact that treaties, as recognized by the Supreme Court, are the Supreme Law of the Land. A diligent search has failed to reveal, as asserted in "The Dissent," that in some manner the Congress has enacted "statutes" that repeal the quoted excerpt which declared that treaties in existence in 1871 would continue valid and effective. Hence, it is erroneous to state that Congress had, in some manner, destroyed the treaties pursuant to which, on

---

24/ The Dissent, pgs. 4-5.

thousands of occasions each day, the Executive Branch of the National Government and the Judicial Branch of the National Government continue to function. Thus, quite aside form Congress, tribal sovereignty is confirmed by the long-term conduct of the Executive and Judicial Branches of the United States.

"The Dissent" ignores the fact that the plenary power of the Congress relates only to legislative functions. Any doubt about that subject is found in the established authorities in which language of this character is used:

> "In the main... that instrument [the Constitution]... has blocked out with singular precision and in bold lines, in its three primary Articles, the allotment of power to the Executive, the Legislative and the Judicial Departments of the Government. It remains also true, as a general rule, that the powers that have been conferred by the Constitution to one of these Departments cannot be exercised by another." 25/

Regarding the division and separation of powers of government, as set forth in the Constitution, Justice Story stated this:

> "The object of the Constitution was to establish three great departments of government.... The first to pass the laws, the second to, approve and execute them, and the third to expound and enforce them." 26/

Simplistically stated, Indian affairs and the day-to-day operation of them, of necessity under our Constitution, are conducted by the Executive Branch of the Federal Government. Daily, the Federal and other courts have before them, for consideration, on-going cases initiated and prosecuted by the Indian nations and tribes pursuant to their treaties. Quite obviously,

---

25/ Kilbourn v. Thomeson, 103 U.S. 168, 191 (1880).

26/ Martin v. Hunter, 14 U.S. 304, 328 (1816).

both the Executive Branch and the Judiciary recognize the sovereign status of tribes upon which Congress did not confer sovereignty. Equally obvious, in doing that, the Executive and Judiciary are reflecting the concepts of "The Dissent." They are practically and pragmatically saying, "Yes, the Indian tribes have sovereignty and we recognize that sovereignty, albeit the Congress did not confer that sovereignty much less destroy it." The statement in "The Dissent" that, by statute, the Congress had destroyed sovereignty is an unfortunate, perhaps even frivolous, declaration. It must be recognized by all that tribes today are exercising their inherent power over land, water, timber and minerals. They are likewise administering schools and other public institutions. One must, of necessity, recoil from the concept that those functions are ultra vires. It is irresponsible to declare tribes have no power independent of the plenary power of Congress. Congress, by confirming treaties and otherwise, has explicitly recognized the tribes have power of the highest dignity. Congress at no time destroyed sovereignty. Congress well knows its daily and historic conduct belies that fact. The treaties take cognizance of the fact that the Indians, long prior to discovery and down to this moment, have been and are now exercising their sovereignty.

Congress, rather than enacting statutes to destroy Indian sovereignty, has wisely, and on numerous occasions, taken advantage of Indian sovereignty and relied upon it as a modus operandi to accomplish its policies. Most recently, Congress, in good conscience, enacted the "Indian Self-Determination Act." In that 1975 Act of Congress, it is declared that:

"The Congress... finds that:

> (2) The Indian people will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations, and persons." 27/

The "desire" which Congress recognizes which the Indians will "never surrender" is their inherent authority to manage their own affairs.

Any doubt of present Congressional authority as to the continued existence of Indian tribal authority is obliterated by this quotation from the last cited Act:

> "The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct and administration of those programs and services." 28/

Thus it is, as recently as 1975, the Congress has expressed, in unequivocal terms, that it does recognize that the Indian people have the authority and are now exercising the sovereign powers of self-government. It is extremely important also to note that the Self-Determination Act can result in, to use the words of Franklin Roosevelt, destroying the autocratic power of the Department of the Interior as it relates to Indian nations and tribes. It must be recognized that bureaucratic suppression of Indian nations' and tribes' sovereignty does not obliterate that sovereignty.

27/ 25 U.S.C. 450(2), Pub. L. 96-638, Section 2, January 4, 1975, 88 Stat. 2203.

28/ 25 U.S.C. 450(a), Pub. L. 96-638, Section 3, January 4, 1975, 88 Stat. 2203.

Daily, an intransigent bureaucracy, going far beyond its vested authority, is imposing its bureaucratic will upon the Indian people. Often, the Indians are powerless in the face of the entrenched, and often vicious, bureaucrats, who will at all costs maintain their power of suppression. That bureaucracy can be pierced only by the President himself.

e. There is no merit in the assertion in "The Dissent" "... that American Indian tribes lost their sovereignty by... history."

History, we are told, is:

> "3: A branch of knowledge that records and explains past events and steps in the sequence of human activities." 29/

A most careful review of McIntosh, Cherokee Nation and the other references, relied upon by "The Dissent," fails to disclose in anyway that history could be responsible for the alleged, erroneous statement that the Indians had lost their sovereignty. What the statement does mean, is this: To achieve a predicate for a fallacious argument, a composite and a coalescence of words, including history, were brought together with the objective of arriving at a conclusion that cannot be sustained. "The Dissent," therefore, must be recognized as an embodiment of political hope that can engender an attack upon the Indian people which will suppress their Indian sovereignty. Indian tribes and people, and those who support them, are fully cognizant that

---

29/ Webster's Third New International Unabridged Dictionary.

"The Dissent" is being utilized for just the purpose, to which reference has been made, to inflame and engender attacks upon Indian people, who have had the temerity to assert that non-Indians have no right to invade their reservations and to take from them their lands, their water, their timber and other invaluable resources.

f. There is no merit separately or in the aggregate, as expressed in "The Dissent" "that American Indian tribes lost their sovereignty through (1) discovery; (2) conquest; (3) cession; (4) treaties; (5) statutes; and (6) history."

Finally, let it be reaffirmed and reiterated that the quoted statements that the sovereignty of the American Indians has been lost through each of the explicit words, set forth above, are gravely in error. It is equally clear that a coalescence of each of the terms, discovery through history, failed to bring about the loss of sovereignty to the American Indians.

Most explicitly, the authorities relied upon and the subsequent cases cited reject, out of hand, the concept that there is no Indian tribal sovereignty residing in the tribes. It is manifest that the conclusions in "The Dissent" are, as stated above, intended to be utilized politically in attacks upon the American Indian nations and tribes. It partakes of a predicate that can be utilized in attacks upon the Indian, but let this thought be advanced here: The Indian tribes, and those who support them, in their desire to exercise self-government, have faith in the American people, have faith in the institutions of America and the formidable body of law supporting Indian people, which, in the long-run, will prove effective against the special in-

terests who have so frequently endeavored, down through the long history of Indian affairs, to destroy the Indian tribes.

E. "The Majority Report" Correctly Declares that the American Indian Tribes, by their Treaties, Reserve to Themselves, Title to their Lands, Rights to the Use of Water, and Other Resources which were not Conveyed by Treaty, Agreements or Otherwise

Throughout "The Majority Report," repeated references are made to the concepts, expressed by the Supreme Court, in the cases of United States v. Winans 30/ and in the Winters decision. 31/ In both those decisions, and decisions which were to follow them, the power, the authority and the effectiveness of Indian nations and tribes, reserving to themselves all that they did not convey to the states, are explicitly declared and explicitly upheld.

It is stated and reiterated in "The Majority Report," that through the exercise of their inherent power of self-government, the tribes have retained to themselves that which they did not grant; and the tribes have the power to administer and control the properties which they retained pursuant to their treaties.

In precisely the same manner as the existence of Indian tribal sovereignty has been challenged in "The Dissent," there is further attack, in "The Dissent," upon the rights and interests which the Indian nations and tribes have reserved for themselves.

30/ 198 U.S. 371 (1905).

31/ 207 U.S. 564 (1908).

F. The American Indian Nations and Tribes, by their Treaties, Retain — In the Exercise of their Inherent Sovereign Powers — All of their Ancient Homelands and Appurtenant Properties They did not Grant to the United States by their Treaties

There has been reviewed in detail by "The Majority Report," the inherent sovereign powers of the American Indian nations and tribes. There has been reviewed, moreover, in detail, that "The Dissent" is without merit. Regarding the most crucial sentence in that "Dissent": "... American Indian tribes lost their sovereignty..." by discovery and other means, it continues to assail "The Majority Report." This inquiry is presented under the subheading, "II. Who Did the Reserving?" Continuing in error, "The Dissent" has this to say:

> "In support of its argument that Indian tribes by treaty have retained to themselves inherent power of self-government, [The Majority Report] relies upon United States v. Winans, 198 U.S. 371, 25 S. Ct. 662 (1905)."

That quoted statement is gravely in error. "The Majority Report" relies upon an abundance of authority — in addition to the Winans case — which authorities were rendered by the Supreme Court and other courts antecedent to and subsequent to Winans. Continuing in error, this additional statement from "The Dissent" must be given particular attention by reason of its fundamental error:

> "It is true that there is dictum in that case [Winans] to the effect that the treaty in that case 'was not a grant of rights to the Indians, but a grant of right from them, —— a reservation of those not granted." 32/

Because of the crucial aspect of Winans and the misrepresentation that the last

---

32/ The Dissent, pg. 23 et seq.

quoted excerpt from it was dictum, it is essential to consider the basic issues here to be considered and to be supported by full and correct documentation:

1. Winans proves and is authority for the proposition beyond successful challange, that the sovereign power of tribes over their properties, held and occupied by them from time immemorial were reserved to the extent that they were not specifically granted by their treaties;

2. Winans proves, beyond question, that the Indian nations and tribes, when they exercise their sovereign powers to enter into treaties, were proceeding at the highest dignity of sovereignty when they executed the treaties, when they ceded the lands described in the treaties, and when they retained all that they did not grant by their treaties.

A review, in depth, of Winans is thus fully warranted. In explicit terms, which "The Dissent" cannot countenance, the Supreme Court of the United States correctly held — not dictum — that the Yakima Indian Nation reserved properties which it did not convey. It retained title to those properties. More importantly, from the standpoint of those who support the Indian people, the Congress of the United States recognized full title in regard to those reserved properties which were not granted by the Tribe. 33/ On that background, reference is made to this erroneous conclusion in "The Dissent":

> "So, as I have rejected the broad assertion of inherent tribal sovereignty, I also reject the broad assertion that tribal Indians have reserved to themselves inherent rights of self-government and property."

Properly to evaluate the specific and general errors contained under the heading, in "The Dissent," "II. Who Did the Reserving?" it is manifest that a

---

33/ See Tee-Hit-Ton Indians v. United States 348 U.S. 272, 279, 280 (1955).

full review of the Winans case must be made. It is important to observe, however, that there are nonsequiturs in "The Dissent." Seemingly, it has been written on the misconception that the tribes "reserved" self-government. That self-government was not reserved. It was, as stated above, passed on from generation unto generation of the forebearers of the American Indians of today. Although that tribal sovereignty is suppressed in many ways, it has never been destroyed. It is the objective of "The Majority Report" to guarantee that the sovereign rights of these independent people will continue.

Relative to the facts and background of the Winans decision, the most crucial feature of that decision is the posture of the United States of America in negotiating and consummating the treaty, thus recognizing, by the treaty itself, that not only did the Yakama Indian Nation have the power to enter into that arrangement of such great dignity, but it also was the owner of the land and the appurtances to the land retained by the Yakama Indian Nation. It was on the 9th day of June, 1855, that the Yakama Treaty was entered into. The words that were used in the Treaty partake of sovereignty. There, it is declared that the parties entered into:

> "Articles of agreement and convention made and concluded at the treaty-ground, Camp Stevens, Walla-Walla Valley... by and between Isaac I. Stevens, governor and superintendent of Indian affairs for the Territory of Washington, on the part of the United States, and the undersigned head chiefs, chiefs, head-men, and delegates of the Yakamas, Palouse, et al... confederated tribes and bands of Indians, occupying lands hereafter bounded and described and lying in Washington Territory, who for the purpose

> of this treaty are to be considered as one nation, under the name of 'Yakama', with Kamaiakun as its head chief on behalf of and acting for said tribes and bands, and being fully authorized thereto by them." 34/ [Emphasis supplied]

Following that initial recital — which takes cognizance of the sovereignty of the assembled tribes -- the Treaty provisions continue: "It is declared as follows:

> Article 1. The aforesaid confederated tribes and bands of Indians hereby cede, relinquish, and convey to the United States all their right, title, and interest in and to the lands and country occupied and claimed by them, and bounded and described as follows...."

Following that declaration, there is set forth in the Treaty a description of a vast area of land in the central portion of the present State of Washington. It is essential to keep in the foreground, however, that the United States, as a sovereign, accepted a conveyance from the "Yakama" Nation as a sovereign. Throughout the covenant, the sovereignty of the Yakima Indian Nation was repeated fully, explicitly and, by the very terms of the arrangement, the United States was proceeding on the basis that it was invoking its sovereignty paralleling the sovereignty of the Indian Nation there involved. It is then provided in the Treaty between the sovereigns as follows:

> "Article 2. There is, however, reserved, from the lands above ceded for the use and occupation of the aforesaid confederated tribes and bands of Indians, the tract of land included within the following boundaries, towit...."

34/ Indian Treaties 1778-1883, Kappler's, Third Print (1975).

There is, following that pronouncement in the Treaty, a description of approximately one and a half million acres of land retained by the Yakima Indian Nation at the time, and today title to that acreage resides in the Yakima Indian Nation. Moreover, the Yakima Indian Nation, today, is exercising its sovereignty over those properties. What exists today was contemplated in 1855, for it is explicitly provided in the Treaty that the lands that were retained -- not granted -- by the Yakima Indian Nation were, and are, for the "... exclusive use and benefit..." for the tribes "... at an Indian reservation...." "And the said confederated tribes and bands agree to remove to, and settle upon, the same, within one year after the ratification of this treaty...." 35/ Following the specific language, relative to the lands of the reservation which were retained, not granted by the Treaty, this crucial proviso, in the Treaty, was set forth in the Winans case with specificity:

> "The exclusive right of taking fish in all the streams where running through or bordering said reservation, is further secured to said confederated tribes and bands of Indians, as also the right of taking fish at all usual and accustomed places...." [Emphasis supplied]

The emphasized portion of the quotation, relative to the "usual and accustomed places of fishing," is of extreme importance - by reason of the fact that those extensive fisheries were retained by the Tribe off of the reservation. There, this comes into issue: Does the sovereign power of the Yakima Indian Nation extend beyond the confines of the reservation? An affirmative answer,

---

35/ Id., pg. 669.

relative to the subject, is set forth by the Supreme Court. Because of the importance of the language of the Court in refuting "The Dissent," that language will be quoted and reviewed in some detail.

Challenges to the Yakima Treaty rights of fishery were the sternest. Winans, or their predecessors, claimed title to the lands on which were located some of the "places" where the Yakima had, from time immemorial, usually and customarily fished. Those patents were from the United States of America, issued by the Secretary of the Interior. They were, moreover, issued by that official without reference to the Treaty provisos respecting the off-reservation fishing so explicitly set forth in the Treaty. It is most significant that Winans and the others, who challenged the Treaty provisos, held licenses from the State of Washington respecting the shorelands of the Columbia River, upon which the patented lands fronted. That is significant because the State of Washington, a party to the proceedings in Winans, asserted ownership to the bed of the stream upon the concept that, upon admission into the Union, on an equal footing with all other states, it had succeeded to the exclusive ownership of the bed of the Columbia River which was navigable. Thus, we have two powerful sovereigns, the Nation and the State, testing the propriety of the Yakima Indian Nation exercising its inherent sovereign power to leave the reservation and to exercise its proprietary interests in the Columbia River, which was miles away from the reservation. Adding to the sternness of the test of the Yakima's sovereignty and its proprietary rights in the Columbia River, the State of

Washington had issued to Winans and the others licenses for the purpose of installing and maintaining devices — known as fishwheels — for the taking of salmon.

When the Highest Court upheld the Treaty rights of fishery off of the Yakima Indian Reservation — establishing beyond question the dignity of the Treaty, and overriding both the patents issued by the National Government and licenses issued by the State of Washington, which claimed title to the bed of the stream — it said this:

> "The right to resort to the fishing places in controversy was a part of larger rights possessed by the Indians, upon the exercise of which there was not a shadow of impediment, and which were not much less necessary to the existence of the Indians than the atmosphere they breathed." 36/

The Court continued, relative to the modification of the title and interest of the Yakima Indian Nation stemming from the Treaty and the rights of fishing that were reserved in that Treaty. It said this:

> "New conditions came into existence [the advent] of the whiteman] to which those rights had to be accommodated. Only a limitation of them [the rights of fishery under the Treaty], however, was necessary and intended, not a taking away."

It was then that the Court declared this crucial language — the main and principal thrust of the Winans decision and not "dictum," as "The Dissent" would have us believe:

36/ United States v. Winans, 198 U.S. 371, 381 (1905).

> "In other words, the treaty was not a grant of rights to the Indians, but a grant of rights from them -- a reservation of those rights not granted." 37/ [Emphasis]

It is worthy of note that the Court, having declared the nature of the Treaty as it pertained to the conveyance and the retention of title by the Yakima Indian Tribe, said this: "And the form of the instrument [the Treaty] and its language was adopted to that purpose." Further, the Court described the nature of the entire proceedings between the sovereign United States and the sovereign Yakima Nation in these terms:

> "Reservations were not of particular parcels of land, and could not be expressed in deeds as dealings between private individuals. The reservations were in large areas of territory and the negotiations were with the tribe." [Emphasis supplied]

Explicitly, recognizing that the Indian Nation was representing its citizenry, the Court added this statement: "They reserved rights, however, to every individual Indian, as though named herein." It was, moreover, of extreme importance that the Court described the nature of the rights of fishery in terms of real property law known as conveyancing. It said this: "They imposed a servitude upon every piece of land as though described herein." Thus, there was a servitude imposed, not only upon the lands patented by the Secretary of the Interior, but upon the claims of the State to the bed of the Columbia River. In describing the nature and dignity of the "servitude" imposed upon the lands of the United States and its grantees and upon the interests of the State of Washington and its grantees, the Highest Court made this very important statement:

37/ Id., 198 U.S. 371, 381-382 (1905).

93-440 O - 78 - 30

> "And the right [reserved in the Treaty by the Indians for themselves] was intended to be continuing against the United States and its grantees as well as against the State and its grantees."

There has been reviewed the main thrust of the Winans decision. In that Doctrine, the Supreme Court recognized and reaff'rmed:

1. The inherent sovereignty of the Indian people and the breadth of its application.

2. The Indian sovereignty cast the Indian people in the role of grantor and the United States, grantee, under the Yakima Treaty in the Winans case.

3. The Indians reserved, as sovereigns exercising inherent power, all the properties that they did not grant, including their reservation and off-reservation fisheries.

4. The three great branches of the Government of the United States were directly and immediately involved, all of them recognizing the inherent power of the Yakima Indian Nation and, indeed, all other Indian nations similarly situated as being sovereigns.

   a. The Executive Branch of the Government negotiated and consummated the Treaty with the Yakima Indian Nation;

   b. the Congress of the United States approved the Treaty;

   c. the Judiciary upheld the Treaty;

   d. the Secretary of the Interior and the State of Washington were declared to be bound by that Treaty; and

   e. the grantors and the grantees of the Secretary of the Interior and of the State of Washington were bound by the servitude imposed by the Yakima Nation upon properties outside of the reservation.

5. "The Dissent" is in grave error in seeking to attack the concepts of Winters and Winans, all of which have been reviewed above.

It is recommended that "The Dissent" reconsider its statement that it was the United States and not the Yakima Nation that reserved the Yakima Indian Reservation and the off-reservation fishing rights. It is further urged that additional consideration be given to the various cases where identically the same concepts as contained in Winans have been reiterated and reaffirmed, further demonstrating the error in "The Dissent."

1. The Winters Decision Must Be Read with the Winans Decision If the Magnitude of the Errors in "The Dissent" are to be Fully Comprehended

There has been reviewed, in some detail, the authority of the Yakima Indian Nation to reserve, not grant, its reservation and appurtenant off-reservation fishing rights. Three years later, the Supreme Court was to render the Winters decision. 38/ There, the nature, extent and character of the Treaty of 1855 with the Blackfoot Indians in Montana were consi[illegible] President Pierce, on April 25, 1856, signed and sealed that Treaty. This Presidential act affirmed "Articles of Agreement and Convention made and concluded between the United States and the Blackfoot and other tribes, at council on the Upper Missouri River..." which had been negotiated between the leaders of the Indians and those of the United States. 39/ That Treaty, it will be observed, retained for the Blackfoot Tribes, did not grant to the United States, a vast area in the Upper Missouri Basin. It is essential to emphasize that the 1855 Treaty of the Blackfoot was a covenant which gave rise to what is known as the Winters Doctrine. Following that Treaty, a covenant was entered into on May 1, 1888. The Court

---

38/ Winters v. United States, 207 U.S. 564 (1908).

39/ Treaty with the Blackfoot Indians, October 17, 1855, 11 Stat. 657 et seq. (Effective April 25, 1856).

of Appeals for the Ninth Circuit traced the unbroken chain of title of the Blackfoot Nation down to the date last mentioned. It is important in referring to the Winters opinion in the Court of Appeals for the Ninth Circuit, which opinion was subsequently affirmed by the Supreme Court, to note this important assertion:

> "By the terms and provisions of this treaty, the Ft. Belknap Indians [part of the group of Indians who signed the 1855 Treaty] reserved to themselves the 'uninterrupted privileges of hunting, fishing, and gathering fruit, grazing animals, curing meat, and dressing robes.'" 40/ [Emphasis supplied]

It is equally important to note that the area set aside for the tribes, not granted by them, embraced the Milk River, which had its source in Montana but entered Canada and returned back into the United States. It is equally important that down through the years the National Government recognized the 1855 Treaty, albeit at times, the National Government acted to limit the area that was embraced within the Treaty. Negotiations, in that connection, were entered into between the United States and the Ft. Belknap Indians, who agreed to make changes in the area which they were occupying.

On the subject raised by "The Dissent," as to "who did the reserving," this quotation from the Court of Appeals for the Ninth Circuit -- later affirmed by the Supreme Court -- is most important:

> "[W]hen the Indians made the treaty granting rights to the United States, they reserved the rights to use the waters of Milk River at least to the extent reasonably necessary to irrigate their lands. The right so reserved continues to exist against the United States and its grantees, as well as against the state [Montana] and its grantees." [Emphasis supplied]

40/ Winters v. United States, 143 Fed. 740, 741 (C.A. 9, 1906).

In the opinion of the Court of Appeals for the Ninth Circuit, the very essence of the Winans concepts was reviewed in depth and those concepts were taken to the Supreme Court for review. They were affirmed. In affirming the decision, the Supreme Court drew heavily upon the lower court's rationale that (a) the Indians were the owners of the rights to the use of water, which they retained under the agreement of May 1, 1888; (b) the Indians were the grantors under that agreement, retaining all of their right, title and interests in the reservation which they did not convey to the United States; and (c) those rights vested in the Indians there involved and retained by them were property interests which were vital for their existence and which interests -- rights to the use of water -- were immune from interference from the State of Montana or the laws enacted by it pertaining to those rights to the use of water. It is worthy of note, to use the language of the Supreme Court, that Winters contended to that Court:

> "... the means of irrigation were deliberately given up by the Indians and deliberately accepted by the Government."

Having emphasized that the Fort Belknap Indian Reservation was arid, the Court analyzed, in some detail, the requirements to make the area "livable." 41/ It emphasized that the objective of the United States and the Indians entering into the agreement was to have a place that was habitable for the Indians. The Supreme Court, on that background, made this crucial statement:

> "The Indians had command of the lands and the waters -- command of all their beneficial use..." for all purposes. 42/

41/ 207 U.S. 564, 576 (1908).

42/ 207 U.S. 654, 576 (1908).

Indeed, the Supreme Court recounted the beneficial uses for which the Indians had retained, did not grant, their rights. Those Indian rights could be applied to "beneficial use, whether the lands were kept for hunting, 'and grazing roving herds of stock,' or turned to agriculture and the arts of civilization." 43/

As the Supreme Court had initially stated in its opinion in Winters, the issue was whether the May 1, 1888, agreement with the Indians and the United States was vitiated when Montana was admitted into the Union in 1889. The Supreme Court rejected that concept in these words: "... it would be extreme to believe..." after the 1888 agreement was executed that "... Congress destroyed the reservation and took from the Indians the consideration of their grant, leaving them a barren waste — took from them the means of continuing their old habits, yet did not leave them the power to change to new ones." 44/ There follows a review which coalesces the concepts of Winans and Winters.

2. Reaffirmance and Reiteration of Concepts of Winans Dispel Any Merit which might otherwise be Attributed to "The Dissent" Relative to the Retention by the Tribes of Properties Not Granted to the United States

Relative to the conclusions and the gravity of the error committed by "The Dissent," reference is made to a case involving the precise issues raised by "The Dissent." That decision removes all merit from the position taken by "The Dissent." It reaffirms that when the Indians executed their treaties, reserving lands and appurtances to themselves, it was in the full exercise of their

---

43/ 207 U.S. 564, 577 (1908).

44/ 207 U.S. 564, 577 (1908).

inherent sovereign powers. 45/ In that case and in precise terms, the issues decided were these:

1. It was the Yakima Indian Nation — under the Treaty upheld in Winans — that reserved rights to the use of water for the Yakima Indian Nation;

2. it was not the United States of America that retained the rights to the use of water, rather it was a grantee under the Treaty;

3. the State of Washington had no jurisdiction in regard to the rights to the use of water reserved by the Yakima Indian Nation;

4. the Secretary of the Interior did not grant away the Yakima Indian rights to the use of water, although he attempted to do that.

In declaring that it was the Yakima Indians who reserved the rights to the use of water involved in the Ahtanum case and relying heavily upon Winans and Winters, the Court of Appeals for the Ninth Circuit said this, citing Winters and quoting from Winans:

> "That the [Yakima] Treaty of 1855 reserved rights in and to the waters of this stream for the Indians, is plain from the decision in Winters v. United States, 207 U.S. 564." 46/

Continuing in its reliance upon Winters and Winans, the Court, in Ahtanum, said this:

> "When the Indians agreed to change their nomadic habits and to become a pastoral and civilized people, using the smaller reservation area, it must be borne in mind, as the Supreme Court said of this very [Yakima] treaty, that 'the treaty was not a grant of rights to the Indians, but a grant of rights from them — a reservation of those not granted.' United States v. Winans, 198 U.S. 371, 381." 47/

45/ United States v. Ahtanum Irrigation District, et al., 236 F.2d. 321, (C.A. 9, 1956), cert. den. 256 U.S. 998 (1956); 330 F.2d. 897 (1965); 338 F.2d. 307 (1965); cert. den. 381 U.S. 924 (1965).

46/ 236 F.2d. 321, 325.

47/ 236 F.2d. 321 U.S. 325-326 (C.A. 9, 1956).

There, the Court continued in language that clearly identifies as error the concepts of "The Dissent," relative to the status of Indian nations and tribes when they signed treaties:

> "Before the treaty the Indians had the right to the use not only of Ahtanum Creek but of all other streams in a vast area. The Indians did not surrender any part of their right to the use of Ahtanum Creek regardless of whether the Creek became the boundary or whether it flowed entirely within the reservation." 48/ [Emphasis supplied]

Explicitly and implicitly, the Ahtanum decision, like Winans and Winters, stated that the Indians were the grantors and the United States, grantee. The Indians, in both Winters and Ahtanum, reserved to themselves, in the exercise of the inherent sovereign power, the invaluable rights, the title to which was invested in them from time immemorial. It necessarily follows that the investiture of title to those immemorial rights was not granted to them by the United States. Rather, those rights had been part and parcel of the Yakima Indian Nation antecedent to the "discovery" of the North American Continent. On the subject, the Supreme Court recently made this comment:

> "It must always be remembered that the various Indian tribes were once independent and sovereign nations, and that their claim to sovereignty long antedates that of our Government." 49/

That sovereignty continues to this moment -- albeit events have modified it.

3. Attempts by "The Dissent" to Denigrate the Supreme Law of the Land Must Fail

There have been reviewed, in explicit detail, the dignity and the merits of the inherent sovereign power of the Yakima Indian Nation to reserve,

---

48/ 236 F.2d. 321, 326.

49/ McClanahan v. Arizona State Tax Commission, 411 U.S. 164, 172 (1973).

by its Treaty of June 9, 1855, its reservation and properties off of the reservation. The power in that Treaty stemming from Indian sovereignty must be comprehended. When that is accomplished, the vacuity of "The Dissent" becomes manifest. Reference in that regard is made to our Nation's organic law — the Constitution — which was so fully invoked when the sovereign United States and the sovereign Yakima Nation negotiated and concluded a treaty of peace. It must be recognized that initially the powers of the President of the United States were invoked and those powers are explicit in the Constitution, which declares:

> "Section. 1. The executive Power shall be vested in the President of the United States." 50/

Nature of the executive power is spelled out with specificity:

> "Section. 2. The President shall be Commander-in-Chief of the Army and Navy of the United States...." 51/

It was pursuant to that proviso that the Chief Executive of the United States, as Commander-in-Chief, waged war against the sovereign nation known as the "Yakamas." It was, moreover, this power that brought about the Treaty, for it confers authority on the President and declares that "He shall have Power, by and with the Advice and Consent of the Senate to make treaties, provided two-thirds of the Senators present concur...."

It is most unfortunate that "The Dissent" finds it obligatory, apparently, to assail the powers vested in the President by the Constitution, to the end that there can be assailed the dignity of the Indian inherent tribal sovereignty. That "The Dissent" fails in its attack, both upon the dignity of this Nation

---

50/ Article II, Section. 1, Constitution of the United States, 1787.

51/ Article II, Section. 2, Constitution.

under its Constitution and the Dignity of the "Yakama" Indian Nation, with whom the covenant of peace was entered into by the Treaty in question, detracts very greatly from any weight that might be ascribed to "The Dissent." That conclusion, necessarily, stems from the Constitution itself, which provides as follows:

> "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made or which shall be made, under the authority of the United States, shall be the Supreme Law of the Land...."

Lest anyone would overlook that provision in our basic and fundamental law, the Constitution continues in these words:

> "And the Judges in every State shall be bound thereby, Anything in the Constitution or Laws of any State to the Contrary notwithstanding." 52/

4. A Nonsequitur in "The Dissent" Demonstrates the Paucity of Authority in Support of It

In the unsuccessful attack upon the inherent sovereign power of the tribes to retain to themselves — not grant to the United States — their reservations and appurtances, "The Dissent" seeks to bolster its conclusions by reference to the Akin decision. 53/ The substance of the Akin decision is this: By what is referred to as the McCarren Act, 54/ the United States is said to have waived its sovereign immunity from suit in state courts in regard to general adjudications involving federal rights to the use of water. That determination — it is believed in error — was first declared in the Eagle River decision. 55/ In Eagle, this statement is made:

52/ Article VI, Clause 2, Constitution of the United States, 1787,

53/ Colorado River Water Conservation District, et al. v. United States, 74-940, 74-949, Akin, et al. v. United States, 424 U.S. 800 (1976).

54/ 43 U.S.C. 666.

55/ U.S. v. District Court in and for the County of Eagle, 401 U.S. 520, 522-523 (1971).

> "As we said in Arizona v. California, 373 U.S. 546, the Federal Government had the authority both before and after a State is admitted into the Union 'to reserve waters for the use and benefit of federally reserved lands.' Id. at 597. The federally reserved lands included any federal enclave. In Arizona v. California, we were primarily concerned with Indian reservations. Id. at 598-601."

Adhering to its earlier statement in Eagle, the Supreme Court declared that the Act was applicable to the Southern Ute Tribe and subjected its rights to the use of water to the jurisdiction of the state court.

Predicated upon the McCarren Act and its waiver of federal immunity from suit, "The Dissent" says this:

> "Accordingly, since the McCarren Amendment provided the consent necessary to sue the United States, and since the Indian water rights were among federal water rights subject to the McCarren Amendment, it followed that Indian water rights could be litigated and determined in an action against the United States." 56/

Errors pervade that last quoted statement. Indian property rights — including rights to the use of water — are not "federal rights." They are not, moreover, "public rights" as that term is generally used. Rather, they are private rights to the use of water, the invasion of which requires the payment of just compensation. 57/

56/ "The Majority Report," pg. 24.

57/ "Redbook," pg. 67. Federal Eminent Domain, Department of Justice Sec. 15. What constitutes 'private property' under the Fifth Amendment. page 56.

> N. Property of Indian wards. - As guardian of the Indian wards, the United States has the power of management and control over lands occupied by the tribes or Indian allottees. Such lands prior to some division or allotment in severalty, are held by the tribe in common. While strict legal title is often in the United States, under the treaties, statutes, or executive orders creating their reservations, the Indian tribes usually have a full beneficial interest, described as a 'right of perpetual use and occupancy.' Since this right is not to be narrowly construed, the tribal interest has been treated for all practical purposes as equivalent to ownership of the land itself. Thus when there is taking of the whole tribal interest within

It is essential to sharply differentiate Indian rights from federal rights. The failure to recognize the difference is one of the most serious deficiencies in "The Dissent." Continuing in reliance upon the McCarren Act and the Akin decision, waiving the National Government's immunity from state court jurisdiction involving general adjudications of rights to the use of water, "The Dissent" says this:

> "In short, the Court [in Akin] was saying that there was no Indian reserved rights but, rather, only federal rights reserved for Indians."

That statement is in error. Reliance upon the Akin decision for that erroneous proposition is a continuing error. Hence, when this statement is added, it likewise adds error to that already made in "The Dissent":

> "I make these remarks [that Indian rights are federal rights] because, in my view, it is wholly erroneous to adopt, as this Commission has, the position that tribal Indians have reserved to themselves all rights not specifically extinguished by treaty." 58/

In regard to that last quoted statement, it is essential to emphasize that there is great confusion in "The Dissent." Throughout that "Dissent," repeated references are made to the inherent sovereignty of the tribes and the ownership of property. That is, of course, incorrect. Tribal ownership of land and tribal

---

57/ (continued) the meaning of the Fifth Amendment, the Government must include as part of just compensation to the tribe the value of the natural resources on the land such as timber or minerals. Certain profits á prendre, such as the right to take fish or gather herbs, occasionally granted to Indian tribes, are also regarded as property rights. Pages 76 & 77.

See page 66--E. Interests in real property * * *.

See United States v. Garlach Live Stock Company, 339 U.S. 725 (1950).

58/ The Dissent, pg. 25.

sovereignty are not even remotely synonomous. In the exercise of tribal sovereignty, Indian tribes execute treaties. By those treaties, all of the lands not granted are reserved by the tribes to themselves. Sovereignty does not flow to the tribes from ownership of land. Rather, the capacity of a tribe to own land flows from sovereignty. The Winans and Winters decisions, reviewed above, are precise and explicit authorities in support of the proposition that tribal ownership and tribal sovereignty are separate and distinct. In other words, the power to own a title is and must be separated from the title itself. Based upon the erroneous concepts that, in some manner, the tribes reserved their title and their properties by a treaty, "The Dissent" concludes as follows:

> "So, as I have rejected the broad assertions of inherent tribal sovereignty, I also reject the broad assertion that tribal Indians have reserved to themselves inherent rights to self-government and property rights." 59/

In evaluating the lack of legal merit in "The Dissent," it is essential to say this: Because the law, as it prevails in regard to (a) the inherent authority of Indian tribes to exercise sovereign powers, including but not limited to the negotiation and execution of treaties; and (b) in the exercise of the inherent powers, the Indian tribes were legally competent, among other things, to retain all the lands they did not grant in full compliance with those treaties, it necessarily follows that "The Dissent," while presenting an agressive anti-Indian sentiment, nevertheless does not offer substance upon which that aggressive anti-Indian sentiment can be successfully advocated, either legally or morally.

59/ The Dissent, pg. 25.

5. "This Nation's Trust Responsibilities Rejected by 'The Dissent'" 60/

Throughout "The Dissent," there has been an attack upon the Nation's relationship with the Indian nations, tribes and people. The assault, in effect, upon that relationship is summarized in that part of "The Dissent" called "Federal Indian Trust Relations and Social Welfare Programs." It is sufficient to say that the social welfare programs are not the only aspects of the trust responsibility to which reference is made under the heading in question. Rather, it embraces all phases and aspects of that relationship.

In responding to "The Dissent's" attack upon the trust obligation of the United States to the Indian people, it is essential to refer to some basic historic facts. Anyone who has considered the subject will agree that there has been and is now an ambivalence in regard to Indian affairs since the Europeans first encountered the Indians. "Love thy neighbor" — the Christian concept — was attendant at the first encounter of the Europeans in the "New World" with the Indian people. Another aspect of what the Europeans brought without mercy to the American Indians, tribes and people has been treachery, murder, confiscation and frequently genocide. Incredibly, the basic conflict between the European society that fostered the United States of America remains today. There is a strong morality which is constantly in conflict with bigotry and greed which vie, one with the other, in the treatment of the Indian people. It must, of course, be recognized that the savagery of the Europeans far exceeded that of the "savages" who were allegedly occupying the land. The skills in treachery and armed warfare of the Europeans did, of course, overcome substantial Indian resistance. But, the fact remains that while one contrasting

---

60/ The Dissent, pg. 71 et seq.

group destroyed Indians, a powerful segment of the European society, at all times, desired fairly to deal with the Indians and to preserve and protect them against the leadership that, through bigotry and greed, demanded Indian annihilation. In "The Dissent," this statement is made:

> "It is clear that in most instances, the United States as the victorious party, dictated the terms of the treaty and reserved various parcels of land." 61/

Again, "The Dissent" has overstated the historic facts which relate to the earliest moments of this Nation's history of Indian affairs, antecedent to the Revolutionary War. It is essential to consider that history, because from it emerges the basis upon which this Nation's trust obligation is predicated. Moreover, it directly relates to the fiction of "discovery" and other fictions which the Europeans have applied to the Indians.

In the light of the circumstances which prevailed, the fiction that "discovery" had seized title to their lands would have been brushed aside by the Indian nations had they been aware of them. Due to their warlike characteristics and independent nature, many tribes withstood the European invaders from discovery to the Revolutionary War. Because they were "powerful and brave," they were "dreaded as formidable enemies..." by the British. 62/ To preserve the peace it was essential to placate those powerful tribes and Britain never asserted "... claims to their lands," or asserted "dominion over their persons...." 63/ Because of the fighting powers of the Indians, it "did not enter

---

61/ The Dissent, pg. 25.

62/ Worcester v. Georgia, 31 U.S. 350, 371 (6 Pet. 515, 546)(1832).

63/ Id.

the mind of any man" that the Crown charters issued by the King to land occupied by Indian tribes envisioned that the colonists would govern those original owners of the land. 64/ From the standpoint of the Indians, they readily accepted from the Crown the price paid to them to maintain the peace "... so long as their actual independence was untouched and their right of self-government acknowledged...." 65/

Adamant refusal to accede to English dominance, in practical effect, won for the Indian nations concessions from the Crown. 66/ In the contemplation of the English law, the Indian nations "... were admitted to be the rightful occupants of the soil, with a legal as well as just claim to retain possession of it, and to use it according to their own discretion...." 67/

There was no outside interference with the Indian national affairs, "further than to keep out foreign powers who might seduce them into foreign alliances...." 68/

Internal self-government was guaranteed to them and the treaties Britain entered into were acknowledged as solemn obligations it was obliged to keep. That was "the settled state of things when the war of our revolution was commenced." 69/

64/ Ibid., at 369 (at 545) (1832).

65/ Ibid., at 371 (at 547) (1832).

66/ F. Thompson on Real Property, 1967 Replacement, Sec. 2713, pgs. 1095-1096.

67/ Johnson v. McIntosh, 21 U.S. 543, 574 (8 Wheat. 543, 574) (1823).

68/ 1 Kent's Commentaries, 13th Ed., pg. 384.

69/ Worcester v. Georgia, 31 U.S. 350, 372 (6 Pet. 515, 549) (1832).

-51-

Throughout the war for independence, the colonists experienced great apprehension that the Indian nations would, as allies of Great Britain, "add their arms to hers." 70/ As a consequence, the Congress "Far from advancing a claim" to Indian lands or asserting dominion over the Indians, resolved to foster and preserve Indian friendship.

At the successful conclusion of the Revolutionary War, the fragile Union of sovereign states continued to desire most assiduously to maintain peace with the powerful and warlike Indian tribes whose dominions bordered upon them, indeed, were interspersed among them. In furtherance of that policy, the National Government entered into treaties both with the Indian tribes that had allied themselves with Great Britain throughout the war of the revolution, and those who were loyal to the colonists. 71/ Mutuality among nations was the postulate of those treaties though they did reflect the pretenses of the British that "protection" was being extended to the tribes by the United States. By those covenants of the highest dignity among nations, captives taken by both the Indian nations and the states were exchanged and peace with everlasting friendship was agreed upon. Reference is warranted to the fact that throughout the entire period when bloody wars were fought to conquer and suppress the Indian tribes, the United States always adhered to the policy that Indians who were captured were not apprehended in treasonable conduct but rather as being subject to the ordinary articles of war.

70/ Id.

71/ See, for example, Act of October 22, 1784 (1 Stat. 15).

93-440 O - 78 - 33

In the interlude between peace with Great Britain and the adoption of the Constitution, the United States functioned as best it could under the Articles of Confederation. Those Articles contained provisions respecting Indian affairs which were inoperative -- indeed, beyond comprehension. Nevertheless, there was an invariable aspect as to the conduct of those affairs and the treaties which were entered into with the Indians. At all times, those original inhabitants were recognized as being political communities of "national character" and having inherent rights "of self-government." 72/

Hamilton, Jay and Madison, in their Federalist essays, expressed the imperative need to have Indian affairs conducted pursuant to the Constitution within the plenary jurisdiction of the Central Government they were proposing. 73/ It was readily recognized that the states were unwilling or unable to restrain the aggressions of their citizens against the Indians, with the attendant frequent and often dreadful wars. 74/ Moreover, the Indian nations on the borders were a threat to the Union as possible allies of European powers. 75/

It was in the contemplation of those facts as reflected in part by The Federalist that the Constitution of the United States, 1787, provides: "The Congress shall have Power ...to regulate Commerce with foreign nations, and among the several states, and with the Indian tribes...." 76/ Full power over Indian

---

72/ Worcester v. Georgia, 31 U.S. 350, 379 (6 Pet. 515, 560)(1932).

73/ The Federalist, Hamilton, Jay, Madison.

74/ The Federalist, No. 3, Jay, pg. 44.

75/ The Federalist, No. 25, Hamilton, pg. 163.

76/ Constitution of the United States, 1787, Article I, Sec. 8, Cl. 3.

affairs is thus the province of Congress. 77/ It is, as stated, elemental that the Constitution, the laws, and all treaties, "shall be the supreme Law of the land...." 78/ Treaty-making resides with the President, acting "... by and with the Consent of the Senate... provided two-thirds of the Senators present concur...." 79/

It is important that the Constitution was initially applied to Indian affairs by Justices in the formative years, who were statesmen at the time of its adoption. Respecting Indian treaties, those Justices declared, "... the words 'treaty' and 'nation'... each have definite and well-understood meaning. We have applied them to Indians and, as we have applied them to other nations of the earth; they are applied to all in the same sense." 80/

Elemental precepts for the construction to be placed upon the Constitution declare that contemporaneous writings are to have ascribed to them substantial weight. 81/ For that reason, it is important to maintain in focus the fact that the most crucial decisions of the Supreme Court were written by Justices who were fully cognizant of the inherent sovereignty of the Indian nations which, as McClanahan recently stated, predates that of this Nation.

It is also important in establishing the dignity, nature, and extent of Indian sovereignty to consider legislation adopted at a time when Congress itself was groping to ascertain the true measure of its authority in the realm of

---

77/ Id.

78/ Ibid., Art. VI, Cl. 2.

79/ Ibid., Art. II, Sec. 2, Cl. 2.

80/ Worcester v. Georgia, 31 U.S. 350, 379 (6 Pet. 515, 559-560)(1832).

81/ McCulloch v. Maryland, 17 U.S. 159, 211; (14 Wheat. 316, 433)(1819).

Indian relations. In 1789, there was established the Department of War administered by a Secretary of cabinet status. 82/ A prime responsibility of that Secretary was Indian affairs. Peace, however, not war with the Indian nations was an imperative necessity. Funds were provided by Congress to negotiate treaties with those nations. 83/ Non-Indian violations of the Indian treaty rights creating issues so great that President George Washington urged in his November 4, 1792, message that legislation be enacted to restrain crimes against the Indian people. Without it, said the first President, the "pacific plans" which had been promulgated in the broad field of Indian affairs would be "nugatory." 84/ Similar legislation was enacted on March 1, 1793, to protect the Indians. It presaged the full application of a federal policy affording -- in theory at least -- the mantle of Constitutional protection for the dependent Indian nations.

In 1802, Congress gave Constitutional sanction and protection to the inherent right of Indians to exercise their powers of self-government. 85/ The federal policy was trade with the Indian tribes and "to preserve the peace with them." 86/

82/ Act of August 7, 1789 (1 Stat. 49).

83/ Act of August 20, 1789 (1 Stat. 54).

84/ Federal Encroachment On Indian Water Rights And The Impairment of Reservation Development, 91st Cong., 1st sess., * * * A Compendium of Papers * * * Joint Economic Committee * * * Vol. 2, pg. 486, footnote 84.

85/ Act of March 30, 1802 (2 Stat. 139).

86/ Id.

-55-

Rapid accession by the United States of vast tracts of former Crown lands became a matter of transcendent importance. Under the Constitution, the Congress had exclusive and plenary power over them. 87/ In keeping with that power, it had established a government to administer what was the Northwest Territory. 88/ Indian nations under treaties with the United States occupied that vast wilderness which subsequently would become the States of Indiana, Ohio, Illinois, Michigan and Wisconsin. 89/ Though Congress expressed a vague intent to protect those Indian nations and their people, it proceeded on the basis that the ultimate title to those former Crown lands resided with the United States. 90/

In 1803, the United States acquired from France the vast area west of the Mississippi River, referred to as the Louisiana Purchase. It "... is justly regarded as one of the most important events in American history," with far reaching import "in the development of the United States Indian policy." 91/

For the great Indian nations occupying lands between the Atlantic coast and the Mississippi River, the Louisiana Purchase was the death knell. It would be the repository for those Indians.

Hence, the virtually unlimited lands west of the Mississippi River offered an area for a forced exodus from the eastern states where the feared

---

87/ Constitution of the United States, 1787, Article IV, Sec. 3, Cl. 2.

88/ 1 Kent's Commentaries, 13th Ed., pg. 286, s. 259; 1 Story, On The Constitution, 5th Ed., 1891, pg. 16, s. 33.

89/ 1 Kent's Commentaries, 13th Ed., pg. 286, s. 259.

90/ Johnson v. McIntosh, 21 U.S. 543, 576, 584 (8 Wheat. 543, 576, 584)(1823).

91/ 1 Annual Report of the American Historical Assn., 1906 Abel, Ch. 1, pg. 241.

and often hated Indians could be removed. In 1803, the first explicit official statement was made to rid the lands east of the Mississippi of Indians. In that year, President Jefferson, in a never-to-be-adopted amendment to the Constitution, under prescribed circumstances, proposed the removal of "... Indians within the U.S. on the east side of the Mississippi..." to the newly acquired "province of Louisiana" west of the Mississippi. It also provided Indian right of occupancy in the soil "... and of self-government, are confirmed in the Indian inhabitants, as they now exist." 92/

On the background of the history of Indian affairs, down to and after the Louisiana Purchase, it was abundantly clear that the Nation was making commitments continuing in character, which commitments partook of solemn covenants. At all times thereafter, the United States acknowledges desire to have the Indians reduce their land claims by treaties and other cessions. In return for those concessions, covenants were spelled out between the Indians and this Nation, both in treaties and otherwise. Thus, there was and is a continuing covenant that the Indian people, residing on reservations, would have the full support then and in the future relative to their lives and their subsistence. In due time, there evolved what was referred to as the trust relationship between the National Government and the Indians. Those were the circumstances of Indian affairs and relationships when the United States Supreme Court rendered its opinions in 1831 and 1832 of the Cherokee Nation v. Georgia 93/ and Worcester v. Georgia.

92/ 1 Annual Report of the American Historical Assn., 1906 Abel, Ch. 1, pg. 241.

93/ Federal Encroachment of Indian Water Rights and the Impairment of Reservation Development in Subcommittee on Economy in Government of the Joint Economic Committee, 91st Cong., 1st Sess., Comm. Towards Economic Development for Native American Communities Committee (Print. 1969) pages 460, 490-493;

-57-

In explicit terms, the Highest Court, with full information as to the covenants and commitments made to the Indian people, enunciated the predicate for the trust relationship. In those several decisions that were entered down through the years, there was clarified, and substantial advancements were made in the responsibility of the trustee to the Indian people. It developed in accordance with ordinary trust law that the National Government must act solely and entirely for and on behalf and in furtherance of the Indian interests. Moreover, the obligation of the trustee United States is always to perform its functions with the highest degree of care, skill and diligence in performing its trust oblitation.

Different facts may vary from tribe to tribe as to the manner in which the trust must be performed by the National Government and the agents. That the trust obligation may vary from reservation to reservation in no way causes the obligation of the Nation to change in connection with its trust obligation. Then it is thus concluded that the United States of America has a legal, equitable and moral obligation as trustee which is clear beyond question, irrespective of the commentary contained in "The Dissent."

93/ (continued) Reprinted in Hearings on Administrative Practices and Procedures Relating to Protection of Indian Natural Resources before the Subcomm. on Administrative Practice and Procedure of the Sen. Comm. on the Judiciary, 93rd Cong., 1st Sess., Part 1 at 175, 191-192.

Chambers, Discharge of Federal Trust Responsibility to Enforce Claims of Indian Tribes: Case Studies of Bureaucratic Conflicts of Interest Comm. in Subcomm. on Administrative Practices and Procedures of the Senate Comm. of the Judiciary, 91st Cong., 2nd Sess., A Study of Administrative Conflicts of Interest in the Protection of Indian Natural Resources, 11 Comm. Print. 1971, Reprinted in the Hearing on Administrative Practices and Procedures Relating to the Protection of Indian Natural Resources before the Subcom. on Administrative Practices and Procedures of the Senate Comm. on the Judiciary, 92nd Cong., 1st Sess., Part 1 at 235, 238-248 (1971).

It is on the background of the Supreme Law of the Land that reference is now made to the plenary power of Congress and the failure of the Executive Branch properly to perform its responsibilities relative to Indian affairs.

G. Congress Cannot Do It All — Plenary Power Has Its Limitations

1. Deficiencies in Executive Action

Congress has "plenary power" over Indian affairs. That overworked terms stems from the Constitution which, among other things, provides that the Congress has power to "Regulate Commerce with Foreign Nations and among the several States and with Indian Tribes." 94/ A distortion of the meaning of "plenary power" has given rise to misconceptions in both "The Majority Report" and "The Dissent." Webster tells us that "plenary" means "complete, absolute, perfect and unqualified." That full power, however, is limited to legislative action. It is the breakdown in the Executive Branch of the Government that has contributed to much of the failure in Indian affairs. Had there been proper Executive conduct, the history of Indian affairs would not have been so bleak. The institutionalized conflicts of interest within the Office of the Secretary of the Interior and the Attorney General of the United States underlie much of the disastrous consequences that exemplify the conduct of Indian affairs.

Legislation, passed by Congress, may be requisite to totally correct the conflicts of interest in the Interior and Justice Departments. Yet, the Executive Branch of the Government can, and must, act immediately to provide

---

94/ Constitution of the United States, 1787, Art. I, Sec. 8, Cl. 3.

protection for the Indians against those conflicts awaiting whatever legislation Congress may decide to adopt.

Two glaring examples of the methods used to defeat the power of Congress will suffice to demonstrate the obdurate actions of an intransigent bureaucracy within both the Interior and Justice Departments.

a. Executive Abridgement of the Winans-Winters Concepts

There has been reviewed, with specificity and detail, the fundamental concepts enunciated, recognized and reaffirmed by the Supreme Court as to both the inherent power of the Indian tribes to reserve and retain to themselves their immemorial rights and to administer those rights which they did not convey to the National Government. 95/

Irrespective of those basic and all important concepts enunciated by the Supreme Court in Winters and Winans, the bureaucracy has steadfastly acted to denigrate the concepts of those two keystone opinions. As stated above, there is attached to this Memorandum "An Analysis of Proposed Secretarial Rules Respecting 'The Use of Water on Indian Reservations' and the Recommended Rejection of Them." Main thrust of that analysis pertains to the distortion of the Act 25 U.S.C. 381, the Powers decision, 96/ and the Hibner case. 97/

In 25 U.S.C. 381, Congress wisely provided that the Secretary of the Interior would have power, under the Act, to formulate and enforce rules and

---

95/ See, "The Winters Decision Must Be Read with the Winans Decision If the Magnitude of the Errors in 'The Dissent' are to be Fully Comprehended," pg. 37 of this Memorandum.

96/ See attached "Analysis," pg. 18 et seq.

97/ See attached "Analysis," pg. 21 et seq.

regulations: To make a just and equal distribution of the water "among Indians" residing on those reservations. In the process of misconstruing the explicit language of that and related acts, the bureaucracy did these things: 1) It purported to act for the Indians. In truth and fact, however it gave, by those rules and regulations which are attached, a carte blanche to non-Indians to seize and utilize Indians rights to the use of water without recourse outside of the courts. 2) It violated the Winters rights to the use of water by awarding parts of those rights to the use of water to non-Indian purchasers of formerly allotted lands; 3) it suppressed, by the proposed rules and regulations, the inherent powers of Indians to exercise self-government and to administer those rights residing in the tribes as recognized in both Winters and Winans. 98/

Objectives of the rules and regulations, in the final analysis, was in furtherance of two cases which are ongoing. They are the Walton case 99/ and the Bel Bay case. 100/ In both instances, the rules and regulations would greatly benefit the non-Indian defendants in those cases to the irreparable damage of the Indian tribes. In both cases, although the Indians declare their ownership to the rights to the use of water, the Interior and Justice Departments assume contrary positions without ever having consulted, agreed or in any way informed the Indian tribes that the Justice Department would align itself against them. Those two cases are representative of the methods adhered to in the Executive Branch of the Government which result in irreparable damage to the Indians. The rules and regulations, as promulgated and fostered in

---

98/ See, page 37 of this Memorandum.

99/ See, attached "Analysis," United States v. Walton, fn. 6, pg. 6.

100/ See, attached "Analysis," United States v. Bel Bay, fn. 6, pg. 9.

furtherance of those two cases, are likewise representative of the grave problem that Congress is confronted with when it is dealing with the obdurate and intransigent bureaucracies in both Interior and Justice.

Quite obviously, the intentions of Congress, to provide for Indians residing on their reservations by making a just and equal distribution of water among them, was violated by the misapplication of the law. Equally clear is the fact that the formidable and favorable aspects of Winans and Winters providing protection for the Indian people, all in keeping with the concepts expressed by the Supreme Court, were abridged by the bureaucracy through the formulation of the rules and regulations in question. It must never be forgotten that suppression of Indian inherent power and authority provides means and methods of perpetuation of an autocratic bureaucracy that has plagued the lives of Indians since the advent of the European at the time of "discovery."

Congress, in the exercise of its broad powers, can legislate away the institutionalized conflicts of interest within the Interior and Justice Departments. It can do so by the establishment of an independent agency to administer Indian affairs. Yet constant vigilence by the Congress and by the Indian people will be required if the new agency is to carry out the will of Congress and to preserve and protect the interests of the Indians.

b. Vitiation of the Congressional Will as Enunciated in the "Self-Determination" Act, 25 U.S.C. 450 Et Seq.

Another example of Executive action violating the will of the Congress and the interests of the Indian nations, tribes and people is the recently enacted "Self-Determination" Act. In explicit terms, Congress has und-

taken to free the Indians from the autocratic control of the existing bureaucracy. 101/ However, "The Majority Report" emphasizes that administrative rules and regulations, as formulated by the bureaucracy, have rendered much of the Act as intended by Congress to be impotent. Whereas Congress has explicitly directed the furtherance of tribal self-government, the bureaucracy has made a contrary determination. There is thus, once again, abrogated the will of Congress and the power of the Indians to administer their own affairs.

These excerpts from "The Majority Report" clearly demonstrate what occurs to the best of plans which Congress can formulate. The Bureaucracy is determined to continue its rule and domination of Indians irrespective of the "plenary power" of Congress. With reference to the Act in question, "The Majority Report," among other things, has this to say:

> "III. Findings and Recommendations:
>
> Presently, there is only one program which provides direct support to the strengthening of tribal government. This program is provided for in Section 104(a) of the Indian Self-Determination and Educational Assistance Act, and is titled the Self-Determination Grants Program.
>
> The administrative regulations of the Self-Determination Grants Program narrow the scope of Congressional intent articulated in the Indian Self-Determination and Educational Assistance Act.
>
> ... the administrative regulations associated with Self-Determination Grants Programs specify 'allowable cost' under the program which serves to limit the allowable activities undertaken to strengthen tribal governments."

There is thus manifested the ways and means that the Congressional will and efforts are thwarted. As a matter of legislative intent, it appears to be an imperative necessity that the Congress not only declare its intent, but es-

---

101/ See above, this Memorandum, pg. 23 et seq.

tablish an agency that will, of necessity, perform the will of Congress. Similarly, the new agency that should be created must reflect the will of the Indian people, rather than the autocratic department to which reference has been made.

2. Immediate Presidential Action Paralleling and Implementing "The Majority Report" is an Imperative Necessity

As reviewed above, there must be action taken by the Executive Branch of the Government with the objective of assisting the Indians if the concepts of "The Majority Report" are to be accomplished. In a word, Congress can legislate for Indian interests but the Executive Banch can — and does — abfuscate, procrastinate and deviate with destructive consequences for the Indians. In the venacular, Congress cannot do it all. Much that has been done for the American Indian by the Congress is being dissipated by the bureaucratic veto of Congressional will. Yet, it is manifest that the refusal of the Executive Branch of the Government — which has been historic — to support the American Indians has been accomplished at relatively low levels of the bureaucracy.

It is of extreme importance, in that regard, to note that this Nation's fundamental law provides that: "The Executive power shall be vested in a President of the United States." 102/ Moreover, and most importantly here, the Constitution declares that the President "... shall take care that the Laws be faithfully executed...." 103/

102/ Constitution of the United States, 1787, Article II, Section 1.

103/ Article II, Section 3.

It cannot be urged too strongly that the full Presidential power be invoked to assure that in the period required to implement "The Majority Report" that "care" is taken to fulfill this Nation's trust obligations to the Indian people.

Respectfully submitted,

William H. Veeder

William H. Veeder
May 1977

AN
ANALYSIS
OF
PROPOSED SECRETARIAL RULES
RESPECTING
"THE USE OF WATER ON
INDIAN RESERVATIONS"
AND THE
RECOMMENDED REJECTION OF THEM

National Congress
of American Indians

TABLE OF CONTENTS

I. Introduction - Summarization. 1

A. Withdrawal of "Proposed Rules" alone will not Suffice; Changes within the Solicitor's Office and Lands Division are also Necessary. 3

B. A Vacuum of Executive Authority is Created by the "Proposed Rules". 3

C. "Proposed Rules" Must Be Considered in the Light of the Walton and Bel Bay Cases and the History of Indian Water Codes. 3

II. Alignment of the Solicitor's Office and the Lands Division Against the Western Indian Nations, Tribes and People. 4

Deception is the Hallmark of the "Proposed Rules". 4

1. "Proposed Rules" have no Application to Non-Indian Expanded Water Use upon Former Indian Land. 4

2. Understanding of the Walton and Bel Bay Cases essential to comprehension of the "Proposed Rules" and the confused Conditions of the Solicitor's Office and Lands Division in regard to Indian Winters Rights. 6

3. History of Water Codes. 13

4. Solicitor's Refusal to Approve Tribal Water Codes. 17

a. Seizure of Indian Winters Rights for Non-Indians. 18

b. Extent of the Winters Rights to the Use of Water the Solicitor's Office would force the Tribe to share with Non-Indians as a Condition to Approval of the water Codes. 21

c. The "Proposed Rules" are: But a "Demonstration of Gross Hypocrisy ***". 23

d. Who, under the "Proposed Rules," are the Non-Indian Persons and Entities Entitled to Share with the Tribes their Winters Rights?. 26

e. Deception in "Proposed Rules" Further Reveals: The Solicitor's "Proposed Rules" Permits Expanded Use of Water by Non-Indians and that Expanded Use of Water is Outside the Purview of Those "Proposed Rules". 28

f. Violation by the "Proposed Rules," If Adopted, of
(a) Tribal Winters Rights to the Use of Water;
(b) Tribal Priority for Those Rights. 28

(1) Confiscation of Tribal Winters Rights and Priorities. 31

(2) Violation of Tribal Winters Rights by the Solicitor's "Expanding" Non-Indian Use after Acquisition of Indian Land. 34

(3) Violation of Winters Rights by the Solicitor's Attempted Application of State Law within the Western Reservations. 35

(4) Violation of Tribal Winters Rights Espoused by Lands Division in Bel Bay Case. 37

Espousal of the Seizure of Tribal Winters Rights by Lands Division in the Bel Bay Case. 37

III. Suppression of Tribal Power of Self-Determination and Self-Government Constitutes Methods used by the Solicitor and Lands Division to Violate Tribal Rights. 41

A. Solicitor's Arbitrary and Capricious Conduct Violates Tribal Titles and Powers. 41

B. Restrictions Relative to Irrigation Projects Further Evidences Attack Upon Tribal Powers and Tribal Rights. 43

C. Appeals Process Further Impinges on Tribal Rights and Tribal Authority. 44

IV. Trust Violations Owing to the Indian Tribes Prevade all Aspects of the "Proposed Rules". 46

A. "No Self-Respecting Law Firm *** would allow itself to occupy the position of the Solicitor and Lands Division respecting the "Proposed Rules". 46

B. Violation of the Trust Obligation Requires Rejection of "Proposed Rules". 47

93-440 O - 78 - 33

AN
ANALYSIS
OF
PROPOSED SECRETARIAL RULES
RESPECTING
"THE USE OF WATER ON
INDIAN RESERVATIONS" 1/
AND THE
RECOMMENDED REJECTION OF THEM 2/

I. INTRODUCTION — SUMMARIZATION

There was published on March 17, 1977, in the Federal Register, proposed Secretarial rules governing "THE USE OF WATER ON INDIAN RESERVATIONS," which are referred to throughout this commentary as the "Proposed Rules." Those "Proposed Rules" are not the product of the incumbent Secretary of the Interior or his staff. Moreover, the Honorable Leo M. Krulitz, now Solicitor of the Department of the Interior, did not approve the "Proposed Rules." Rather, as will be reviewed, the "Proposed Rules" were sponsored by former Secretary

---

1/ Vol. 42 Fed. Reg., No. 52, page 14885, 14886 et seq.; Thursday, March 17, 1977. A copy of these "Proposed Rules" are attached to this memorandum and made a part of it by reference.

2/ This analysis relates directly to the case entitled: Colville Confederated Tribes v. Walton, et al., Civil No. 3421 in the United States District Court for the Eastern District of Washington, Northern Division, (see page 6, footnote 6).

of the Interior, Rogers C.B. Morton. The recently departed Solicitor is primarily responsible for the "Proposed Rules," as published. That official, working in close conjunction with personnel from the Land and Natural Resources Division, hereafter referred to as the Lands Division, formulated the concepts and determined the goals which were to be achieved by those proposed rules and regulations. As will be reviewed and emphasized, the "Proposed Rules" are disastrous for the Western Indian nations, tribes and people.

An overriding factor relative to these "Proposed Rules" is that they are premature. The Solicitor's Office and Lands Division are seeking to achieve, by Secretarial fiat, the relief which they now desire to obtain in the Walton and Bel Bay cases. Those cases are inextricably interrelated to the "Proposed Rules," all as evidenced by the attached Solicitor's letter dated September 28, 1976, to the Lands Division.

The "Proposed Rules" should be rejected because they are:

> Deceptive, professing to protect the Indian Winters rights to the use of water; whereas, in truth and fact, they are
>
> Violative of the Winters Doctrine rights to the use of water, the full equitable title to which resides in the tribes. The "Proposed Rules" result in the seizure of Winters rights to the use of water for non-Indians. They, moreover, result in a seizure of Indian priorities for the benefit of non-Indians by declaring that the non-Indian purchaser of formerly allotted lands acquires Winters Doctrine rights and is entitled to the same priority of the tribes. Those rules are, moreover,
>
> Suppressive of the inherent power of the Indians to manage their own internal affairs within their reservations. Those rules condition Secretarial approval of tribal water codes upon the agreement by the tribes that they will relinquish Winters Doctrine rights and priorities to non-Indians.

A. Withdrawal of "Proposed Rules" alone will not Suffice; Changes within the Solicitor's Office and Lands Division are also Necessary

Withdrawal of the "Proposed Rules" should ensue because they are [1] deceptive, failing on their face to disclose their adverse consequences to the Indians; [2] violative of the Indian Winters rights and the priority of those rights; and [3] suppressive of Indian authority and the dignity of the American Indian nations, tribes and people. Withdrawal of the "Proposed Rules" will not alone suffice; there must be changes to correct the conflicts of interest giving rise to them in the Solicitor's Office and Lands Division. They are racist in content and character. They are the product of the conflict of interest in the Solicitor's Office and Lands Division.

B. A Vacuum of Executive Authority is Created by the "Proposed Rules"

The "Proposed Rules," declaring that neither the tribes nor the Secretary of the Interior have jurisdiction over non-Indians, creates an executive vacuum in regard to non-Indians who have greatly expanded their irrigated acreage after Indian lands have been purchased by non-Indians. In effect, the objectives of the "Proposed Rules" are to strip from the tribes and Secretary, executive authority over irrigated lands developed by non-Indians after the acquisition of those lands by them. That posture is legally incorrect and administratively impossible.

C. "Proposed Rules" Must Be Considered in the Light of the Walton and Bel Bay Cases and the History of Indian Water Codes

To comprehend the "Proposed Rules," which declare that they have no application to expanded irrigation development after non-Indian acquisition, and their adverse impact upon the Indian Winters rights and tribal authority concept, a separate review is necessary. There is, in the footnotes and set forth throughout the commentary, the history of the Walton and Bel Bay cases and the history of the tribal water codes.

II. ALIGNMENT

OF THE

SOLICITOR'S OFFICE

AND THE

LANDS DIVISION

AGAINST THE

WESTERN INDIAN NATIONS,

TRIBES AND PEOPLE

Deception is the Hallmark of the "Proposed Rules"

1. "Proposed Rules" have no application to non-Indian expanded water use upon former Indian Land.

The "Proposed Rules" are disastrous for the Indian people, all as observed above. They have no application to irrigated acreage developed by non-Indians after they have acquired formerly allotted lands. Those "Proposed Rules" are predicated primarily upon Section 7 of the General Allotment Act. That section is codified as 25 U.S.C. 381 and is set forth below. 3/

It will be observed that 25 U.S.C. 381 authorizes the Secretary to issue rules and regulations for a just and equal distribution of water "among the Indians residing" upon reservations requiring "water" for agriculture.

3/ See attached "Proposed Rules," pg. 14885, 14886, Part 260, Sec. 260 et seq.

"IRRIGATED LAND; REGULATION OF USE OF WATER

In cases where the use of water for irrigation is necessary to render the lands within any Indian reservation available for agricultural purposes, the Secretary of the Interior is authorized to prescribe such rules and regulations as he may deem necessary to secure a just and equal distribution thereof among the Indians residing upon any such reservation; and no other appropriation or grant of water by any riparian proprietor shall be authorized or permitted to the damage of any other riparian proprietor."

Relative to that section and the use of water by non-Indians upon irrigated lands developed by the non-Indians subsequent to acquisition of formerly allotted lands, the Solicitor says this in the attached letter dated September 28, 1976, and directed to Lands Division:

> "This [25 U.S.C. 381] confers no authority upon the Secretary to deliver any water to non-Indians." 4/

Later in that letter, in regard to the "Proposed Rules," the Solicitor makes this statement:

> "*** the Department will approve individual tribal water codes regulating the use of water reserved under the Winters Doctrine on the tribe's reservation so long as the following conditions are met:
>
> (4) The tribe seeks only to regulate the use of reserved water rights, which includes [1] tribally owned water rights, [2] rights owned by allottees, and [3] the 'first component' of the rights described in Hibner; *** 5/

By the reference to the "first component" of Hibner, the Solicitor has made the determination: When a non-Indian acquires formerly allotted lands, he "*** will get a Winters priority to the amount of water used when the land was *** held by an Indian. That statement, as applied to the "Proposed Rules," is a clear violation of the tribes' claimed full equitable title to all water rights. Moreover, the "Proposed Rules" exempts from the application of them, the non-Indian exploiter, who acquires undeveloped land, and after acquisition, vastly increases the irrigated acreage, seizing Indian water without right for that purpose.

4/ See attached Solicitor's letter, September 28, 1976, pg. 6. This letter is frequently referred to in this commentary.

5/ Solicitor's letter, pg. 7, para. (4).

2. Understanding of the Walton and Bel Bay cases essential to comprehension of the "Proposed Rules" and the confused conditions of the Solicitor's Office and Lands Division in regard to Indian Winters rights.

It will be observed that the attached letter from the Solicitor pursuant to which the "Proposed Rules" were formulated relates to United States v. Walton and United States v. Bel Bay. 6/ Those cases are reviewed below. However, it is essential briefly to refer to the fact that the case

(commentary continues on pg. 12)

6/ United States v. Walton, Civil No. 3421, [sic], Eastern District of Washington; United States v. Bel Bay Community and Water Association, Civil No. 303-71-C2, Western District of Washington.

The Solicitor's letter is in error. The case cited is Civil No. 3831. Civil No. 3421 is the case, Colville Confederated Tribes v. Walton, et al. The two Walton cases — Colville v. Walton and the United States v. Walton — were consolidated for further proceedings by court order, dated December 19, 1973.

Colville Confederated Tribes v. Walton, et al., Civil No. 3421, in the United States District Court in and for the Eastern District of Washington, Northern District.

Simplistically, that case involved the following factual statement:

No Name Creek is a small creek which rises in the southwestern portion of the Colville Indian Reservation. It flows its full length through a deeply insized mountain valley, all within the Reservation and terminates when it enters a beautiful closed body of water known as Omak Lake.

The lands bordering No Name Creek were allotted to members of the Colville Confederated Tribes. In the 1920's, the Indian allottees, owning three (3) adjoining allotments, sold them to non-Indians. Probably because of its meager flow, the waters were never diverted and used to irrigate the lands while they were in Indian ownership.

Immediately below those three (3) allotments, which passed into the hands of non-Indians, there was an allotment occupied by Colville Indian people and their water was diverted from No Name Creek for the purposes of irrigation, domestic, and other uses. Moreover, members of the Colville Confederated Tribes fished in No Name Creek and otherwise used it for recreational purposes. Further, the Colville Confederated Tribes own lands at the point of where No Name Creek enters Omak Lake and utilized it for tribal purposes.

6/ (continued) In the closing years of the 1940's, the Waltons purchased the three (3) Indian allotments which had gone out of Indian ownership a quarter of a century earlier. The previous non-Indian owners of those allotments never diverted and used the waters of No Name Creek, antecedent to selling them to the Waltons.

In 1948, the Waltons made a filing of an application with the State of Washington for the purpose of appropriating the waters of No Name Creek. That filing was to acquire from the State of Washington a certificate of water right.

During the ensuing years, the Waltons expanded their uses of water from No Name Creek, both from the surface and ground waters of that stream.

During the summer months, the Waltons dried up No Name Creek. By those acts of the Waltons, the Indian allotees and the Colville Confederated Tribes were deprived of the waters of No Name Creek.

In September of 1970, the Colville Confederated Tribes filed in the Federal Court in Spokane, the case of Colville v. Walton, to which reference is here made. Two years later, on September 27, 1972, that Court entered a temporary injunction, both as to time and quantities of the water which the Waltons could take and divert from No Name Creek.

When the Court enjoined the Waltons, the State of Washington intervened in Colville v. Walton. The Confederated Tribes then petitioned the Solicitor's Office to request the intervention in Colville v. Walton by the United States on behalf of the Tribes. On February 2, 1973, the Solicitor requested the intervention by the Lands Division in Colville v. Walton. Contrary to the position of the Tribes, which were as against Walton claiming ownership of the rights to the use of water and the power to administer those rights to the use of water, the Solicitor's Office said this to the Lands Division: "Please allege that the Secretary of the Interior has the exclusive jurisdiction to control and administer the allocation of water on tribal, alloted and formerly allotted lands [the Waltons] of the Colville Reservation pursuant to the authority of 25 U.S.C. 381." It is essential here to refer to the fact that the rules to which these comments are directed are predicated upon, and issued pursuant to 25 U.S.C. 381, the Act last cited. As also reviewed above, the Solicitor has now completely reversed the quoted positions.

Rather than intervening on behalf of the Colville Confederated Tribes, the Lands Division initiated, on its own volition, an entirely independent case — United States v. Walton. This is the reason for refusing to intervene in Colville v. Walton as stated in the Lands Division's letter dated March 3, 1973, to the U.S. Attorney in Spokane, Washington: "By letter dated February 2, 1973 *** Interior requested

6/ (continued)we intervene in [Colville v. Walton] *** We have decided, however, not to intervene because the complaint filed on behalf of the Tribes does not, in our opinion,

> raise the issue which must be addressed to obtain a judicial determination in this controversy, i.e., the authority of the Secretary of the Interior to determine allocation of water on Indian Lands."

Earlier in that communication from the Lands Division to the U.S. Attorney in Spokane, it had adopted virtually identically the same language as was quoted above from the February 2, 1973, letter from the Solicitor to the Lands Division. In other words, both the Solicitor's Office and the Lands Division insist that 25 U.S.C. 381 sought to confer upon the Secretary of the Interior, "the exclusive jurisdiction to control and administer the allocation of water on tribal, allotted and formerly allotted lands of the Colville Reservation. ***"

There was filed on March 15, 1973, by the Lands Division, United States Attorney in Spokane, the complaint in U.S. v. Walton. The Lands Division prayed that the Waltons be "enjoined from diverting water *** in any amount [sic] of excess of that authorized by the Secretary of the Interior." Incongruously, the Secretary of the Interior, then and now, had never authorized Waltons, nor anyone else, to divert from No Name Creek, or any other stream for that matter, any quantity of water. Quite clearly, the Lands Division was acting contrary to the demands of the Colville Confederated Tribes in that the Tribe had insisted that: (1) Walton had no right to the use of water in No Name Creek; and (2) that Walton could take water only upon the approval of the Tribe. It is essential to observe, moreover, as will be fully reviewed, that the Lands Division has repeatedly delayed — and continues to delay — the trial of the Waltons' case on the merits. It is also important to observe that the case of U.S. v. Walton, to which reference will immediately be made, has been consolidated with the Colville v. Walton case for the purpose of trial.

United States v. Walton, et al., and the State of Washington, in the United States District Court for the Eastern District of Washington, Northern Division Civil No. 3931.

Both the Solicitor's Office and later the Lands Division, in its letter of March 6, 1973, asserted in error that 25 U.S.C. 381 — conferred "exclusive jurisdiction" upon the Secretary of the Interior to control, administer and allocate the water resources on the Colville Indian Reservation.

6/ (continued) As reviewed in the mentioned letter of March 6, 1973, to the United States Attorney in Spokane, Washington, directing the initiation of United States v. Walton, et al., having alluded to the request that it intervene in Colville v. Walton, the Lands Division explains the reason for the rejection for the request: "We have decided not to intervene," because the case of Colville v. Walton does not raise the issue of "*** the authority of the Secretary of the Interior to determine the allocation of water on Indian land."

Moreover, the Lands Division firmly asserted "exclusive jurisdiction" resided in the Secretary of the Interior to control, administer and allocate all of the water on the Colville Indian Reservation: "This allegation is the same as that made in the case entitled, United States v. Bel Bay Community, et al., Civil No. 303-71-C2, U.S.D.C., Western District of Washington.

By reason of the fact that the Lands Division and the Solicitor's Office have correlated the cases of United States v. Walton and the case of United States v. Bel Bay Community, it is essential that a comprehensive analysis be made of that case.

As observed above, the Solicitor's Office and Lands Division have denied the Secretary has power over non-Indian land.

United States v. Bel Bay Community *** State of Washington, Civil No. 303-71-C2 in the United States District Court, Western District of Washington, at Seattle.

On November 23, 1971 — subsequent to the initiation of the case of Colville v. Walton; the Lands Division initiated the above entitled proceedings, which hereafter will be referred to as the Bel Bay case. As in the Walton cases, these and other issues are presented:

1. The alleged "exclusive jurisdiction" of the Secretary of the Interior, under 25 U.S.C. 381, to administer the rights to the use of water on Indian reservations — as reviewed above, the Solicitor's Office has not reprised itself;

2. the issue of whether non-Indians acquire rights to the use of water when title to formerly allotted lands passed to them;

3. the nature and extent of the rights, if any, of non-Indians who acquire formerly allotted lands; and

4. the jurisdiction of states over rights to the use of water within Indian reservations.

6/ (continued) The salient facts of the Bel Bay case are these:

Situated on Puget Sound, a substantial portion of the Lummi Indian Reservation is surrounded by salt water. Formerly allotted Lummi Indian land was purchased by the Bel Bay Community and those lands were subdivided for residential purposes. That community applied to the State of Washington for a permit to drill a well and to pump ground water for the purposes for which the Bel Bay Community was organized. On December 17, 1970, the State of Washington issued the permit. Among other things, the State asserted that it had jurisdiction over the "surplus" waters within the Lummi Indian Reservation; that there were surplus waters within that reservation; and the permit to the Bel Bay Community extended to that surplus.

An investigation disclosed that the proposed well would be at a depth of 40 feet below the level of the surrounding salt water in Puget Sound. The investigation further disclosed that by the pumping at Bel Bay to the extent that it was requested in the permit would result in a reduction in the ground water table to a point where there would be salt water intrusion into the fresh water table, thereby contaminating the fresh water underlying the Lummi Indian Reservation causing the Lummi Tribe irreparable damage.

In reporting those facts, and others, the Regional Solicitor, Robert E. Ratcliffe, in a memorandum dated June 7, 1971, said, among other things, that: "The Secretary of the Interior has 'exclusive jurisdiction to administer all water, surface and ground, within the Indian reservation'; that if the state had jurisdiction to administer 'surplus water' on the Indian reservation, the existence and extent of that surplus would be a question solely for the United States to decide; and that the permit issued by the state was an arbitrary and a capricious act."

On September 14, 1971, the Solicitor's Office referred the Bel Bay case to the Lands Division. The case was commenced by the United States Attorney in the Federal District Court in Seattle.

Lummi Indian Tribe, Intervenor in Bel Bay Case

The Lummi Indian Tribe intervened in the Bel Bay case. In its motion dated April 21, 1972, the Lummi Indian Tribe asserted, among other things, that the Lands Division's case, as initiated against the Bel Bay Community, and the statements made by the Lands Division's attorneys, revealed that the "interests and position *** differs materially and prejudicially from the interest of the Lummi Indian Tribe."

It is urged that the case as initiated by the Lands Division involves the authority of the State of Washington, the Secretary of the Interior and the Lummi Indian Tribe. The Lummi Tribe then asserts that the

6/ (continued) adjudication of those issues — as asserted by the Lands Division and the State of Washington "***will permanently impair *** the Indian rights to the use of water "both as owner of the natural resources and as a sovereign governmental body to regulate that natural resource." (See motion, April 21, 1972, pages 2-3, lines 20-23; 1-3.) It is likewise averred in the Lummi motion to intervene that contrary to the Tribe's interest, the Lands Division had acknowledged that the Bel Bay Community had rights to the use of water within the Lummi Indian Reservation. Moreover, the Lummis assert that the only objection raised to the claim of water by the non-Indian Bel Bay Community by the Lands Division would be to limit the Bel Bay's rights to a stated amount."

The motion avers, moreover, that contrary to the interest of the Lummis, the Lands Division has suggested that the State of Washington might have jurisdiction over "surplus water," which the Lummis denied. In the motion, it is also stated, "Finally, it appears that the Justice Department is asserting the primary interest of the Secretary of the Interior in his functions with respect to the allocation of water. The Justice Department will not assert as forcibly plaintiff/intervenors the right, powers and authority of the Lummi Indian Tribe to manage and regulate its own resources as a sovereign governing body." (Motion, April 21, 1972, pg. 4)

On May 12, 1972, the Federal Court granted the Lummi motion to intervene in the Bel Bay case.

Adversary Status of the Solicitor's Office and the Lands Division against the Colville and Lummi Tribes

Anamolous though it may be, both the Lummi Indian Tribe and the Colville Confederated Tribes have been forced to protect themselves against the Lands Division and the Solicitor's Office. The intervention of the Lummi Tribe in the Bel Bay case to protect itself against the Lands Division has been reviewed. It is equally important that the Colville Confederated Tribes have filed a motion with the court, asking the court to align the Lands Division as an adversary to the Colville Confederated Tribes in the Walton cases.

That alignment in the Walton and Bel Bay cases comports fully with the positions which it is believed the tribes should take in regard to the "Proposed Rules."

of United States v. Walton was initiated on the basis that the Secretary, under 25 U.S.C. 381, had "exclusive jurisdiction" over the water resources on the Colville Indian Reservation. Lands Division, in its letter of March 6, 1973, states the objective of this case is "*** to obtain a judicial determination in this controversy, i.e., the authority of the Secretary of the Interior to determine the allocation of water on Indian Lands." In the attached Solicitor's letter, there is a complete reversal of the position taken in the case of United States v. Walton. The Solicitor's Office does not now seek, in the "Proposed Rules," to control the Waltons' water use as is contemplated in United States v. Walton. Reasons for the reversal: The Solicitor now states that 25 U.S.C. 381 does not confer exclusive jurisdiction on the Secretary to control water resources on the Colville Indian Reservation. On page six (6) of the attached Solicitor's letter, it is stated:

> 25 U.S.C. 381 "*** confers no authority upon the Secretary to deliver any water to non-Indians."

That complete reversal by the Solicitor and the impact on the Walton and Bel Bay cases is reviewed below. Corrective measures within the Department of the Interior and the Lands Division to protect the all important tribal Winters Doctrine rights and the tribal authority to administer those rights is an imperative necessity.

Because of the drastic reversal, as set forth above, in the "Proposed Rules," from the previous positions taken by the Solicitor and Lands Division, it may be of assistance briefly to review the activities of the Indian

people to formulate their own rules and regulations which now, pursuant to the "Proposed Rules," are subject to harsh limitations imposed upon the tribes by those "Proposed Rules."

3. History of water codes

For ten (10) years, the Western Indians have acted to (a) protect, preserve, conserve, utilize and exercise their invaluable Winters Doctrine rights to the use of water; 7/ (b) to exercise their inherent powers of self-government in the administration, allocation, control and management of those rights in the generally short, frequently meager supplies of water on their arid and semi-arid Western reservations.

7/ The Winters Doctrine - Lifeline for the Western Indians: Winters Doctrine rights to the use of water are the most valuable assets of the American Indians, particularly Indian people residing in the arid and semi-arid West. To adopt the language of the Supreme Court in the famous 1908 decision, Winters v. United States, 207 U.S. 564 (1908), in regard to Montana's Fort Belknap Indian Reservation, "The lands were arid and without irrigation were practically valueless" (I.D. 207 U.S. 564, 576, 1908). When, in 1963, the Winters Doctrine was reiterated and reaffirmed by the Supreme Court, these terms were used: "Most of the land in these reservations is and always has been arid. If the water necessary to sustain life is to be had, it must come from the Colorado River or its tributaries...." Arizona v. California, 373 U.S. 546, 598 (1963).

Important here is the rational of the Winters Doctrine as expressed in the last cited decision, for it is the Secretary of the Interior whose "Proposed Rules," if adopted, would abridge the Winters rights of the Indians with the attendant irreparable damage to the Western Indian nations, tribes and people. That rationale is summarized in these words by the Supreme Court: "It is impossible to believe that when the Congress created the great Colorado River Indian Reservation, and when the Executive Department of the Nation created the other reservations, they were unaware that most of the lands were of the desert kind — hot, scorching sands — and that water from the river would be essential to the life of the Indian people *** and the crops they raise." (373 U.S. 546, 598-599, 1963).

During that ten (10) year period, the Western Indians have acted to adopt "Water Codes" designed to achieve the highest and best use of their water resources. They have at all times proceeded upon the concept that full equitable title to the Winters Doctrine rights to the use of water resided in the tribes. They have likewise proceeded on the basis that the governing body of the tribes, working in conjunction with appropriate agencies of the Department of Interior and the Department of Justice, could regulate the use of water, both by Indians and by non-Indians, on their respective reservations.

In the year 1967, the Western tribes and those working with them undertook concerted efforts to develop "Water Codes" or ordinances to achieve the ends so essential to the conservation and utilization of the water resources. Briefly chronicled below are some of those activities relating the tribal "Water Codes" and the results of them. 8/ (commentary continues on pg. 17)

7/ (continued) Vital to the Indians is the additional fact that the Winters Doctrine reserved rights to the use of water in the streams which arise upon, border upon, traverse and underlie their arid and semi-arid — again to use the language of the Supreme Court: "*** suffice 'to satisfy the future as well as the present needs of the Indian Reservations.'" 373 U.S. 546, 600 (1963).

8/ A. The Warm Springs "Code": In 1967, the Warm Springs Indian Tribe in the State of Oregon undertook and completed a comprehensive water resources inventory. That Warm Springs' code defined the water resources, declared the amount of water available for a variety of purposes, and among other things, spelled out the water requirements. The Warm Springs' code has been successful. I was advised on March 21, 1977, by members of the Warm Springs' tribal council that there is a need of updating and perhaps implementing the code based upon current conditions.

B. Yakima's prohibition against pumping ground water and drilling wells without permits from the Yakima Tribal Council: In 1967, the Yakima Nation demanded that action be taken to protect itself and its tribal members against the violation by non-Indians of their Winters rights to

8/ (continued) the use of water within the reservation. Powerful non-Indian agri-business corporations were pumping large irrigation wells. The effect of that pumping had dried up, or greatly lowered, the ground water table causing severe damage to individual Indians on the reservation, which after that date, prohibited the "*** withdrawal of ground water in the Yakima Indian Reservation," and the drilling of wells or other works for the withdrawal of ground water "unless an application to appropriate such waters has been made to the Yakima tribal council and a permit for construction or withdrawal has been granted." (Yakima Indian Nation Resolution ?-5-70, July 10, 1969) Concurrent with that resolution, the initial preparation of the Yakima water code was undertaken. In 1971, there was transmitted to the Yakima tribal council by the Regional Solicitor in Portland, Oregon, a draft of proposed regulations "By the Secretary of Water Use On Indian Reservations." (See Memo dated April 16, 1971, from Assistant Regional Solicitor to the Superintendent of the Yakima Indian Reservation, Bureau of Indian Affairs). Those proposed regulations were without regard to the desires of the Yakimas to administer their own rights to the use of water. Moreover, those rules and regulations were rudimentary in form and fell far short of being adequate to meet the tribal needs or those of the tribal members.

Recently, the Yakima tribal council has prepared a draft of a Yakima water code. That code is now under active review. It is very much at odds with the "Proposed Rules" that were published by the Secretary of Interior, particularly in regard to the powers and authority of the tribe to administer its own rights to the use of water.

C. 1973 - Meeting Held in Spokane, Washington, to Formulate Indian Policy Relative to Water Codes: Under pressure from Indian leadership, in a letter dated October 5, 1973, Ray H. Sampeel, then Special Assistant to the Secretary of the Interior, wrote to the Chairmen of the Affiliated Tribes of Northwest Indians. He proposed a meeting in Spokane, Washington, to be held on October 24th and 25th. He stated that the meeting would be held with members of the Solicitor's Office from Washington and from members of the Bureau of Indian Affairs. That meeting was duly convened. The chasm which exists between the Solicitor's Office and the tribes became apparent from the moment that the meeting was opened. There, the Affiliated Tribes and their respective membership demanded protection of their Winters rights and their authority to develop water codes.

A resolution was adopted at that meeting providing, among other things, as follows:

8/ (continued) "Statment of Principles Covering Water Right Regulations": The regulations of the rights to the use of water on the Indian reservations: (1) must proceed on a tribe-by-tribe basis because of the variety of circumstances and differences among the tribes; (2) there must be recognition that the tribe is the owner of the full equitable title to the rights of the use of water, and the interest of the United States is limited only to that of trustee for the sole and exclusive benefit of the Indian tribes; (3) the Secretary of the Interior, as the principle agent of the United States trustee, recognizes the Indian sovereign power of self-government by the tribes, including the power to regulate the use of water by Indians and non-Indians on the reservation.

D. Colville Water Code: In accordance with the concept of the meeting of October 24th and 25th, 1973, as convened by the Special Assistant to the Secretary, there was great activity among the Indian tribes in attempting to formulate their own water codes. On May 6, 1974, the most comprehensive set of rules and regulations relative to the control and use of water of any reservation was adopted by the Colville Confederated Tribes. Throughout, that code will be referred to as the "Colville Water Code." There the governing body of the Colville Confederated Tribes claimed full equitable title to the rights of the use of water on the Colville Indian Reservation and the right to administer those waters on Indian and non-Indian land alike.

There has been an adamant refusal of the Solicitor's Office to approve that Colville water code. Nevertheless, the Colville Business Council is now, and has been, issuing "water permits" pursuant to the "Colville Water Code" and otherwise to implement their claim to title to the rights to the use of water within the Colville Indian Reservation and to exercise tribal sovereignty in the administration of those rights. (Resolution No. 1974-334, dated May 6, 1974, Colville Business Council, "Colville Water Code.")

E. Lummi Water Code: The governing body of the Lummi Indian Tribe, adhering to the concepts advanced in the October 24th and 25, 1973, meeting, referred to above, adopted its "water code" by the enactment of an appropriate ordinance. Adhering to the 1973 concepts, the Lummi Tribe claims full equitable title to all of the rights to the use of water on its reservation and the tribe's inherent power to administer those rights to the use of water on Indian and non-Indian land. (Ordinance No. L-41, dated October 7, 1974, Lummi Business Council.)

4. Solicitor's Refusal to Approve Tribal Water Codes

The Colville Confederated Tribes, upon the adoption of their water code, submitted it to the Solicitor's Office for approval. Conferences were held among the Colville representatives and the Solicitor's Office. There was an adamant refusal on the part of the Solicitor's Office to approve that water code.

It is now apparent, as will be reviewed, that litigation was in progress in which both the Solicitor's Office and the Lands Division were diligently taking positions diametrically opposed to that of the Colville Confederated Tribes, the Lummi Tribe and other tribes.

In 1974, the Shoshone and Bannock Tribes, occupying the Ft. Hall Indian Reservation, State of Idaho, joined the Colville Confederated Tribes, the Lummis and others, seeking to have approval of their newly adopted "water code."

Like other Western tribes, the Ft. Hall Tribes have suffered greatly from Federal and non-Indian violation of their Winters rights to the use of water. Rejection of the Ft. Hall water code by the Commissioner of Indian Affairs was directed to them by the Secretary of the Interior, Rogers C.B. Morton. 9/ It will be observed that the Morton memorandum presages

---

9/ On January 15, 1975, Secretary Morton, by a memorandum dated January 15, 1975, made the following statement and directive to the then Commissioner of Indian Affairs: "SUBJECT: Tribal Water Codes

As you know, the Department is currently considering regulations providing for the adoption of tribal codes to allocate the use of water on Indian reservations is presently in litigation. I am informed, however, that some tribes may be considering the enactment of water use codes of their own. This could lead to confusion and a series of separate legal challenges which might lead to undesirable results. These may be avoided if our regulations could first be adopted.

the "Proposed Rules" and the objectives sought to be achieved through those rules, if adopted.

a. Seizure of Indian Winters rights for non-Indians

The Solicitor's "Proposed Rules" contain repeated references to "persons and entities entitled to use reserved water rights; ***" Inquiry is resented as to who are the persons and entities. The attached Solicitor's letter is revealing, for it states: "There are two basic questions"

1. Do Indian allottees and non-Indian successors in interest to Indian allottees hold any portion of the Winters Doctrine reserved rights to the use of water?

2. What is the respective extent of the authority of the Secretary, the state and the tribes to regulate the use of water on Indian reservations?"

In answer to question one — Do Indian acquire Winters rights to the use of water? — the Solicitor says the following, based upon United States v. Powers:

9/ (continued) I ask, therefore, that you instruct all agency superintendents and area directors to disapprove any tribal ordinance, resolution, code, or other enactment which purports to the use of water on Indian reservations and which by the terms of the tribal government document is subject to such approval or review in order to become or to remain effective, pending ultimate determination of this matter.

(sgd) Rogers C.B. Morton

That memo from former Secretary Morton contains the concepts which are so violative of Indian rights. It will be observed that the water codes are to be for the purpose of governing "reserved" water on Indian reservations. Until the distorted concepts of the Solicitor and Lands Division are comprehended, all as will be reviewed, the meaning of C.B. Morton's memo of January 15, 1975, was cryptic. It is no longer; for it is evident that as directed by C.B. Morton, the "Proposed Rules" achieve the desired end which he espoused and which were issued on March 17, 1977.

> "We believe that the Indian allottees and their non-Indian successors in interest do hold some reserved rights to the use of water." 10/

Thus, it is apparent that there is no intention under these "Proposed Rules" to protect "in perpetuity all rights to the use of water reserved for the benefit of the Indians." 11/ Rather, it is immediately apparent that the Solicitor is willing to bargain away the Indian rights, and has used equivocal terms to achieve that end.

It is pertinent here to review the Solicitor's letter, which is attached, in an effort to understand the opinion so damaging to the Indians that a non-Indian purchaser acquires "some" of the Winters Doctrine rights to the use of water. That conclusion was in error predicated upon a reading of the case, United States v. Powers. 12/ It must be comprehended that Lands Division initiated the Powers case in 1934. In that case, Powers, a non-Indian, was named a defendant. It is equally important to observe that the Lands Division, in the Powers case, denied that the Crow Indians, upon whose reservation the case arose, held Winters Doctrine rights to the use of water. Rather, the contention was made that the United States of America acting through the Secretary owned those rights to the use of water.

The trial court rejected 13/ the contention of the Lands Division, declaring that the Indians were the owners of the Winters rights and not the United States. From an adverse ruling by the lower court, an appeal was taken to the Court of Appeals for the Ninth Circuit. The Ninth Circuit

---

10/ Solicitor's letter, pg. 5.

11/ See attached "Proposed Rules," pg. 14885, "Purposes"(a); 14886, Part 260, sec. 260.2(a).

12/ U.S. v. Powers, 305 U.S. 527 (1939).

13/ U.S. v. Powers, 16 Fed. 155 (U.S.D.C. Montana, 1934).

sustained the position of the trial court that it was the Crow Indians who owned the Winters rights and not the United States. The appellate court, however, reversed the lower court and directed the dismissal of the case. It did so because the trial court attempted to adjudicate rights to the use of water, when that trial court lacked jurisdiction due to the want of indispensable parties who had interests in the stream but who were not before the court. 14/ From that ruling of the Court of Appeals of the Ninth Circuit, the Lands Division presented the case for review before the Supreme Court. That Court made short shrift of the matter. It made this succinct ruling:

> "The decree of the Court of Appeals dismissing the bill [in the Powers case] must be affirmed." 15/

Thus it is that the Solicitor's Office, in the attached letter to the Lands Division, declares that the Western Indian tribes lose "some" of their Winters rights to the use of water predicated upon a case that was dismissed. To achieve the end, the Solicitor ignored the fact that nothing was determined and nothing decided in Powers. It is extremely important to observe that the Solicitor's Office made no mention of the fact that the case was dismissed and that no decision was made other than the want of jurisdiction. What does emerge from the erroneous reliance upon the Powers case is an aggressive advocacy adopted by the Solicitor against the Indian tribes, all as reflected in the "Proposed Rules."

14/ U.S. v. Powers, 94 F.2d. 783 (CA 9, 1939).

15/ U.S. v. Powers, 305 U.S. 527, 528 (1939).

There has been reviewed the methods adopted by the Solicitor's Office in declaring that the tribes must share their Winters rights to the use of water with non-Indians, as a condition to having the tribal code approved. It will now be necessary to turn to the second question as to the extent of the rights to the use of water, that the tribes will lose if they accept the "Proposed Rules."

b. Extent of the Winters Rights to the Use of Water the Solicitor's Office would force the Tribes to Share with Non-Indians as a Condition to Approval of the Water Codes

Having declared that the tribes must share "some" of their Winters Doctrine rights with non-Indians, the Solicitor undertook to determine how much is "some." It looked to the 1928 case of United States v. Hibner, decided by the United States District Court for the Eastern District of Idaho. 16/

As it failed to tell the crucial facts as to the Powers case which was dismissed, all as reviewed above, the Solicitor's Office, in citing the Hibner case, does not comment upon the most pertinent feature of the Hibner case. That most pertinent fact is this: The formerly allotted lands there involved were outside of any Indian Reservation. 17/

Another extremely important factor not mentioned by the Solicitor's Office in citing Hibner is the "Agreement" forced upon the Ft. Hall Indians which were involved in the Hibner case. Under the agreement between Ft. Hall Indian Tribes and the United States, the Ft. Hall Indians "do hereby cede, grant, and relinquish to the United States all right, title, and

---

16/ 27 F.2d. (U.S.D.C. Ida., E.D., 1928).

17/ Solicitor's letter, pg. 4.

interest ***" to the lands which were ceded and which included the allotments in the Hibner case. 18/ It is also provided that the Ft. Hall lands, which were "ceded, granted and relinquished "*** shall remain part of the public domain. Those lands were no longer "reserved lands," they were part of the public domain, title to which was in the United States. 19/ One of the most crucial provisions of the "Agreement" which existed in Hibner, is as follows: "Where any Indians have taken lands and made homes on the reservation and are now occupying and cultivating the same, under the sixth section of the Fort Bridger treaty hereinbefore referred to, they shall not be removed therefrom without their consent, and they may receive allotments on the land they now occupy; ***" 20/

Another unique provision, in regard to Hibner, is this quotation from the above mentioned 1898 agreement:

> "The water from streams on that portion of the reservation now sold which is necessary for irrigating on land actually cultivated and in use shall be reserved for the Indians now using the same, so long as said Indians remain where they now live." 21/

As the court in Hibner recognized, it was confronted with an unusual set of circumstances. More importantly, however, in regard to forcing the

---

18/ Vol. 1, Indian Affairs, Laws and Treaties, Kappler, 2nd ed., pg 704, Act of June 6, 1900, "An Act to ratify an agreement of the Indians of the Ft Hall Indian Reservation in Idaho, and making appropriations to carry the same into effect," Article 1.

19/ Id., Article IV

20/ Id., Article III, pg. 706.

21/ Id., Article VIII, pg. 706.

tribes to share their rights to the use of water, is this fact: The tribes had, by the arrangement of 1898, ceded, granted and relinquished all of their claims. In the Walton and Bel Bay cases, the tribes occupy their reservations and in connection with those reservations, are claiming all rights to the use of water. It is abundantly manifest that the Solicitor's attempt to apply Hibner to those facts is grossly in error. Yet, the Solicitor declares, on page 5, that the non-Indian purchaser "would get a Winters priority to the amount of water used when the land was in trust." Full import of both the Powers and Hibner cases, as they relate to the "Proposed Rules," will be set forth.

c. The "Proposed Rules" are: But a "Demonstration of Gross Hypocrisy ***"

When there was fully chronicled the attempts to justify, by the Secretary, an effort to give away 75% of the Yakimas' rights to the use of water in Ahtanum Creek, the late Judge Pope described that reprehensible conduct of the high official as being representative of "The numerous sanctimonious expressions to be found in the acts of Congress, the statement of public officials, and the opinions of courts respecting 'the generous and protective spirit which the United States properly feels toward its Indian wards,' *** and the 'high standards in controlling Indian affairs' *** are but demonstrations of a gross national hypocrisy." 22/

22/ United States v. Ahtanum Irrigation District et al., 236 F.2d. 321, 327-328, (CA. 9, 1956), cert. denied 352 U.S. 998 (1956); 330 F.2d. 897 (1965); 338 F.2d. 307 (1965); cert. denied 381, 924 (1965).

Those precise statements made in regard to the efforts of the Secretary to support the attempted give away of the Yakima rights to the use of water are equally as applicable to the "Proposed Rules" which the Solicitor seeks to justify as the fulfillment of the trust obligation. In that regard, reference is made to the fact that on two occasions, the "Proposed Rules" declare that there "purposes are" to fulfill the Department's trust responsibility "*** to provide a method to preserve and protect in perpetuity all rights to the use of water reserved for the benefit of the Indians." 23/

Reference is also made to the definition of "reserved rights" which the "Proposed Rules" state have this meaning: "***those rights to the use of water recognized as reserved in accordance with the principles enunciated in Winters v. United States *** and subsequent cases, which rights have either an in memorial priority or a priority date as of the establishment of the reservation." 24/ It has been reviewed above, in regard to the Winters Doctrine rights of the Indians that they are sufficient to meet the present and the future water requirements for the Indian reservations. In the "Proposed Rules," it is evident that the objective of the "Rules" are to seize and take from the Indians, rather than to protect and preserve in perpetuity the invaluable Winter rights to the use of water. That invasion of the Indian Winters rights to the use of water is explicit when consideration is given to the full import of the "Proposed Rules," as drafted.

23/ See attached "Proposed Rules," pg. 14885 "Indian Reservations' Use of of Water." Pg. 14886, Part 260, sec. 260.2, "Purposes"(a).

24/ Attached "Proposed Rules," Part 260, sec. 260.1 "Definitions"(b).

Under the heading of "Purposes," it is declared that the Secretary of the Interior is to delegate his powers under 25 U.S.C. 381 to the Indian tribes. It is most doubtful that the Secretary has that authority. However, that is a separate issue to those being now considered. In connection with that delegation, it is stated in the "Proposed Rules," that they are:

> "(c) To provide for the delegation to Indian tribes of the Secretary's authority to prescribe rules and regulations distributing water on Indian reservations to persons and entities entitled to use reserved rights; ***" 25/

That quoted proviso from the "Proposed Rules," underscores the Solicitor's insistence — albeit in error — that the Indian tribes, pursuant to their water codes, share their Winters rights with the non-Indians. Reference in that connection is made to the "Proposed Rules," under the heading "Approval of Tribal Water Codes." That approval is conditioned upon the tribes' adopting water codes which will "*** allocate and regulate the use of reserved water rights *** for a beneficial use by any person or entity, including non-Indian persons and entities, that may be entitled to exercise such reserved water rights." 26/

To guarantee the tribes will be forced by the Secretarial "Proposed Rules" to share their Winters rights with non-Indians, those "Rules" declare:

25/ "Proposed Rules," Part 260, sec. 260.2, "Purposes"(c).

26/ "Proposed Rules," Part 260, sec. 260.3(a), under the heading of "Approval of Tribal Water Codes."

1. "(b) The Secretary shall approve the code if it satisfies the following requirements: ***(1)(ii) all procedures shall permit any person who claims a right to the beneficial use of reserved waters to present his claim by application to the tribe with any pertinent evidence in support thereof." 27/

In light of that proviso, it is necessary to turn to the Solicitor's letter and to the proceedings of Lands Division in the Walton and Bel Bay cases to ascertain and determine the impact of allowing non-Indian persons and entities, under the "Proposed Rules," to be awarded Winters Doctrine reserved rights to the use of water predicated upon Hibner.

d. Who, under the "Proposed Rules," are the Non-Indian Persons and Entities Entitled to Share with the Tribes Their Winters Rights?

In support of its untenable position, the Solicitor quotes extensively from Hibner. The first quote, 28/ states that a non-Indian purchaser of Indian land and water "should be awarded *** the same water right with equal priority as those of the Indians." That statement may be correct relative to Hibner in regard to isolated Indian lands outside of the reservation. It is incorrect where it conflicts with title claims within a reservation as in the Walton and Bel Bay cases. The Solicitor's conclusion is predicated upon issues now being litigated in those cases, and for that reason, is clearly premature.

In the next quotation, the Solicitor selects this language from Hibner:

27/ "Proposed Rules," Part 260, sec. 260.3(b)(1)(ii).

28/ Solicitor's letter, pg. 4.

> "*** the whiteman, as soon as he becomes the owner of Indian lands, is subject to those general rules of law governing the appropriation of the public waters of the state ***" 29/

Quite clearly, predicated upon the Organic Acts of the states and decision, the Solicitor is in error. In both the States of Idaho, where the Hibner case arose, and Washington, where the Walton and Bel Bay cases are on-going, the state law has no application within Indian reservations, which are explicitly exempt from state law.

Proceeding upon the language quoted from Hibner, the Solicitor makes this request to the Lands Division:

> "We ask you to take the position that the scope of the reserved right which passes to allottees and successors in interest pursuant to Powers is that set forth in Hibner, except that we ask you to argue that the non-Indians' reserved rights should be limited to the water actually used by the Indian predecessor." 30/

Reference is made back to the earlier portion of these comments in which the Solicitor is quoted as having declared, "that the tribes would have the authority to regulate *** the 'first component' of the rights described in Hibner." 31/ The "first component," in other words, as stated by the Solicitor, is the amount of water that the Indian was using at the time that his allotment passed out of Indian ownership. It is reiterated and underscored, however, that Hibner cannot be used in any general way as authority for violating the tribal Winters rights to water. Under no circumstances

---

29/ Solicitor's letter, pg. 5. [Note: This quotation, as set up by the Solicitor, ends with a period. That is incorrect. And what is omitted is very important if the tone and temper of Hibner is to be understood. However, because Hibner has no application here, further comment in regard to the Solicitor's misquotation will not be made.]

30/ Sol. Let., pg. 5.

31/ See above, pg. 6(d).

should the Indian nations, tribes and people accept the legal concepts advanced by the Solicitor's Office in reliance upon Powers and Hibner for the reasons expressed above. It is imperative, moreover, that all interested parties comprehend that the condition for Secretarial approval of Indian water codes is an admission of loss of Winters Doctrine rights. That admission could and will be utilized against the Indians as declarations against their interest if the "Proposed Rules" are not rejected along with the Solicitor's concepts.

e. Deception in "Proposed Rules" Further Reveals: The Solicitor's "Proposed Rules" Permits Expanded Use of Water by Non-Indians and that Expanded Use of Water is Outside the Purview of Those "Proposed Rules"

Here it is essential to refer to some of the facts in the Walton cases which have been reviewed in detail. Walton purchased Indian lands that had never been irrigated. He undertook, however, to acquire a right to the use of water from the State of Washington. He, likewise, expanded the irrigated acreage on his allotments from zero to approximately 100 acres. In the process, Walton dried up the stream that was there involved, depriving the Indian allottees downstream from him with the water that had previously been available to them. Quite obviously, the Walton case relates specifically to the phase of the "Proposed Rules" which recognize that non-Indians may expand their uses of water and that the expanded uses are not within the purview of the "Proposed Rules." It is equally clear that the "Proposed Rules," now to be considered, are contrary in ever respect to the "Colville Water Code" and the "Lummi Water Code," both of which are discussed.

In the review which precedes immediately above, the Solicitor has adopted the view -- without any sound authority -- that a non-Indian purchaser acquires a Winters Doctrine or a "reserved" right when he purchases lands which were formerly allotted. The measure of those rights is the extent of the water that had been used by the Indian antecedent to the title to the allotted lands passing to non-Indians. Thus it is that a non-Indian becomes an owner to "reserved" rights, all as stated by the Solicitor in grave error.

Equally important is the fact that the "Proposed Rules" are strictly limited to "reserved rights." In that connection, it is again necessary to turn to the Solicitor's letter to find the manner in which the Solicitor's Office would interpret the "Proposed Rules," should they be adopted.

Continuing to rely upon Hibner, the Solicitor says this:

> "A non-Indian purchaser, therefore, would get a Winters Doctrine priority to the amount of water used when the land was in trust. The successor in interest can expand his use thereafter, but we believe that principles of state law (and the later priority date) should cover this later use." 32/

By that statement, the Solicitor's letter agrees to the violation of Winters rights and to the expanded use by non-Indians of water to irrigate lands above and beyond that irrigated when the lands went out of Indian ownership, both grave losses to the Indian tribes. The Solicitor refers to the expanded use of water as the "second component" of Hibner:

> "While the second component of Hibner is derived from federal law, and subject to federal jurisdiction, we do not believe it has any characteristics of a federally reserved water rights."

32/ Sol. Let., pg. 5, last sentences of first full paragraph.

How that conclusion is reached is impossible to discern. There is no sensible authority for it. Quite obvious y, the allotment outside of the Ft. Hall Indian Reservation, and the rights to the use of water claimed there, were not rights to which the tribe was asserting title on its own behalf. Most assuredly, in Hibner the expanded use was predicated on state law.

Nevertheless, the Solicitor says this: "*** we do not support tribal jurisdiction over this use of water." Thus it is that the tribal codes which were formulated with the tremendous expenditure of time and money would have no application to the non-Indian expanded use which the Solicitor refers to as the second component of Hibner.

Predicated upon those mistaken concepts of the Solicitor, the "Proposed Rules" are a travesty. They are without meaning, and, indeed, it is believed they are without utility. There is thus presented the anamoly of the "Proposed Rules":

1. The tribes, to secure Secretarial approval to their water codes, must acknowledge that a non-Indian succeeds to a part of the Winters rights to which the tribe claims;

2. moreover, the tribe, in order to obtain Secretarial approval of a water code, must agree to the expansion of use by a non-Indian, which is so destructive to Indian tribes and people, and that the codes would have no application to those expanded non-Indian users, all as reviewed in some detail with examples by the Solicitor in the attached letter to Lands Division.

Not only does the Solicitor's letter and the "Proposed Rules," as drafted, make a travesty of the right of a tribe to administer the water resources on the reservation, it actually renders bizarre — even weird — the posi-

tion that the Lands Division has taken in the Walton cases. 33/

f. Violation by the "Proposed Rules," If Adopted, of (a) Tribal Winters Rights to the Use of Water; (b) Tribal Priority for Those Rights

(1) Confiscation of Tribal Winters Rights and Priorities

There has been reviewed with specificity, the concepts of the Solicitor's Office and the Lands Division in regard to the Walton and Bel Bay cases. It is to be observed, from the attached Solicitor's letter, that those cases have proceeded based upon concepts which are diametrically opposed to those that are stated in the attached Solicitor's letter. Irrespective of the saltatory conduct of the Solicitor's Office and Lands Division, the Colville Confederated Tribes and the Lummi Tribe in the Walton and Bel Bay cases continues to assert ownership to the full equitable title to all water resources on their respective reservations. They likewise assert the violation of those rights by the defendants in those cases are adopting, in part, the positions espoused by both the Solicitor's Office and the Lands Division, 34/ as to expanded uses after acquisition of former Indian land. Similarly, in their respective water codes, the Colville Confederated Tribes and the Lummi Indian Tribe make the same assertions as to ownership of their Winters rights as they do in the cited cases.

33/ See above analysis of Lands Division position as set forth in the complaint filed by the Lands Division in the Walton cases and the assertions contained in that complaint relative to the power to control the quantity of water that Walton would be entitled to receive. Relative to the right to control by Secretarial rules and regulations, the quantity of water that Walton would be entitled to receive. See footnote, 6, pgs. 6-7.

34/ See above, pg. 29 et seq.

In the event that the Secretary of the Interior would adopt the "Proposed Rules," as formulated and interpreted by the Solicitor's Office, there are two immediate violations of the tribal rights which would transpire:

1. The Secretary of the Interior, through those "Proposed Rules," would in effect seize Indian Winters Doctrine rights to the use of water for the benefit of non-Indians;

2. grant to the non-Indians, for whom the Winters Doctrine rights are seized and taken from the tribe, priorities equal to that of the tribe.

As will be emphasized, the seizure of a priority is, in effect, confiscation of an invaluable property right 35/ to which the tribes are entitled to hold and which they should not be forced to share with non-Indians.

It is, of course, elemental, that Winters rights to the use of water are interests in real property. 36/ It is equally elemental that a priority for the Winters Doctrine rights is perhaps the most valuable component of those rights. Thus it is that when the Solicitor's Office -- albeit in error -- states, based upon Powers, the non-Indian owner of formerly allotted lands acquired "some" reserved rights, those "Proposed Rules" in effect seize and take from the tribe "some of their Winters rights." 37/ Moreover,

---

35/ It has been stated authoritively "Property rights in water consist not alone in the amount of the appropriation, but also in the priority of the appropriation. It often happens that the chief value of an appropriation consists in its priority over other appropriations from the same natural stream. Hence, to deprive a person of his priority is to deprive him of a most valuable property right ***" From the same source, it is declared, "A priority right to the use of water, being property, is protected by our Constitution so that no person can be deprived of it without 'due process.'" (Nichols v. McIntosh, 19 Colorado 22; 34 Pacific 278, 280 (1893).

36/ 1 Wiel, Water Rights in the Western States, 20, 21, 301 (2rd ed. 1911); Ashwander v. T.V.A., 297 U.S. 288, 330 (1936); United States v. Chandler Dunbar Company, 229 U.S. 53, 72 (1913).

37/ See above, 18 et seq.

83-440 O - 78 - 33

when the Solicitor's Office, albeit in grave error, states, based upon Hibner, that the "some" of Winters rights taken from the tribe is measured by "*** the water actually used by the Indian predecessor," 38/ the Secretarial confiscation of the Indian Winters rights is consummated if the "Proposed Rules" are permitted to become effected.

Those "Proposed Rules" are equally clear and equally disastrous in error in so far as the Western tribes are concerned when the tribes are forced to share their invaluable Winters rights with non-Indians. Yet, that is precisely the violation of Indian rights proposed by the Solicitor -- when again in grave error it is stated: "A non-Indian purchaser, therefore, gets a Winters Doctrine priority to the amount used when the land was in trust." 39/ It is indeed anamolous for the principle agent of the United States trustee for the Indians -- the Secretary of the Interior -- to advocate the confiscation of Winters rights and the priority for those rights as the "Proposed Rules" contemplate. On the subject of Secretarial confiscation of Indian property, the Highest Court said this:

> "The Secretary's power to control and manage the property and affairs of Indians in good faith *** does not extend so far as to enable the government 'to give away tribal land to others'*** that 'would not be an exercise of guardianship, but an act of confiscation.'" 40/

38/ Sol. Let., pg. 5. See above, pg. 29.

39/ See above, pg. 18 et seq.; see Solicitor's letter, pg. 5.

40/ Shoshone Tribe v. United States, 299 U.S. 476, 497 (1936).

(2) Violation of Tribal Winters Rights by the Solicitor's "Expanding" Non-Indian Use after Acquisition of Indian Land

Confiscation of tribal Winters rights and priorities pursuant to the "Proposed Rules" has been reviewed. Even more sinister is the espousal by the Solicitor's Office in the formulation of the "Proposed Rules" that:

> "The successor in interest [of formerly allotted lands] can expand the use thereof, but we believe that principles of state law (and a later priority date) should cover this later use." 41/

There is here reiterated, by reference, the review set forth above relative to the mistaken concepts of the Solicitor's Office in applying the principles of the Hibner case. 42/

The expanded use — the second component of Hibner — by non-Indians strikes at the very heart of the case of Colville v. Walton. That concept, as advanced, constitutes one of the most grave injustices that the Solicitor's Office, by the "Proposed Rules," could impose upon the tribes. Yet, as stated above, the Solicitor's Office says that it does "not support tribal jurisdiction over this use of water." 43/

Because the "Proposed Rules" do not relate to those expanded non-Indian uses — by far the most serious problem confronting the Indian tribes — the tribes, and the Secretary alike, are stripped of jurisdiction over those rights by the "Proposed Rules." 44/ Upon any reservation in the semi-arid

---

41/ See above, pg. 28 et seq.; attached Solicitor's letter, pg. 5.

42/ See above, pg. 29 et seq.

43/ See above, pg. 30 ; see Solicitor's letter, pg. 9.

44/ Id.

West, the most serious violations stem from the non-Indian expanded use of water after the acquisition of formerly allotted lands.

Continuing, the Solicitor states, there is no remedy open to the tribe over the expanded non-Indian use after acquisition of formerly allotted lands, thus leaving the tribes with the sole remedy of going to Federal court. 45/ In simple terms, the "Proposed Rules" are not only gravely in error and pro-non-Indian, they are totally impotent in regard to the greatest need of the tribes — the control of non-Indian expanded use after acquisition of Indian land within his reservation.

(3) Violation of Winters Rights by the Solicitor's Attempted Application of State Law within the Western Reservations

In straining to support the non-Indians against the claimed title of the tribes to Winters Doctrine rights and tribal authority to administer those rights, the "Proposed Rules," as formulated, are predicated upon many misconceptions. Hibner, as the Solicitor recognizes in regard to the non-Indian expanded use after purchase, is predicated on state law.

Proceeding - arguendo - that Hibner might have relevancy — which is denied — the repeated reference to the state laws in the Solicitor's letter must be considered. The Solicitor's letter quotes this excerpt from Hibner and relies upon it: The non-Indian expanded use "*** is subject to those general rules of law governing the appropriation of use of the public waters of the state ***" 46/ However, both in the State of Idaho where Hibner

---

45/ Sol. Let., pg. 10.

46/ Sol. Let, pg. 5.

arose, and in the State of Washington where the Walton and Bel Bay cases are pending, the state law does not apply to Indian rights to the use of water. In Idaho, state law is inapplicable to Indian property. 47/ There, the people of Idaho agreed that they would disclaim all right, title and interest to Indian property within the State. Moreover, the people of Idaho recognized that Indian property "*** shall remain under the absolute jurisdiction and control of the Congress of the United States ***" Virtually identical language as that set forth from the fundamental laws of Idaho appears in the Enabling Act and Constitution of the State of Washington. In Montana, which has identical language in its Enabling Act and Constitution with that of the State of Washington, it was held that state law respecting rights to the use of water had no application within the Flathead Indian Reservation. 48/ Of extreme importance, however, here, in regard to the immunity of the Winters rights on Indian reservations from state law, is the Ahtanum decision.

In that case, the State of Washington, having intervened, was a party. It sought to have the laws of that jurisdiction applied to the Yakima Indian Reservation. In rejecting the contention of the state, the Court of Appeals for the Ninth Circuit had this to say:

> "Rights reserved by treaties [the Yakima, 1855 Treaty] such as this are not subject to appropriation under state law, nor has a state power to dispose of them." 49/

47/ See Idaho Admission Bill, Act of July 3, 1890, Chpt. 656, sec. 1; 26 Stat. 215, Idaho Constitution, Article 21, sec. 19.

48/ U.S. v. McIntire, 101 F.2d. 650, 653 (1939).

49/ U.S. v. Ahtanum Irrigation District, et al., 236 F.2d. 321, 328 (CA 9, 1956), cert. denied 352 U.S. 988 (1956); 330 F.2d. 897 (1965); 338 F.2d. 307, cert. denied 381 U.S. 924 (1965).

It is, moreover, of extreme importance that those concepts were reiterated and reaffirmed by the Supreme Court. On the subject, the Supreme Court used this language: "Arizona also argues, that in any event, water rights cannot be reserved by Executive Order." Relative to that statement, the Highest Court declared, "We can give but short shrift at this late date to the argument that the reservations either of land or water are invalid because they were originally set apart by Executive." 50/

In the light of the immunity of the tribal Winters rights from state law, the Solicitor's concepts must be rejected.

(4) Violation of Tribal Winters Rights Espoused by Lands Division in Bel Bay Case

Reviewed above and emphasized is the fact that the Walton cases, the Bel Bay case, the attached Solicitor's letter and the attached "Proposed Rules" are inextricably interrelated. In a motion for partial summary judgement filed in the Bel Bay case, the Lands Division espouses the concepts and errors advanced by the Solicitor's Office in the attached letter.

Espousal of the Seizure of Tribal Winters Rights by Lands Division in the Bel Bay Case

There is broad, general adherence by the Lands Division to the misconceptions and general attack upon the tribal Winters rights reflected in the attached Solicitor's letter. In the Bel Bay case, the Lands Division declares specifically that a non-Indian purchaser acquires Winters rights to the use of water when he takes title to formerly allotted lands.

50/ Arizona v. California, 373 U.S. 546, 598 (1963).

In regard to the Bel Bay Community, and the other defendants in the Bel Bay case, the Lands Division, in its motion for summary judgement, says this:

> "*** the defendants Bel Bay Community and Water Association, *** and individual defendants named herein are entitled, as a matter of law, to the use of whatever quantity of water was being utilized by the previous Indian allottees when the lands in question were removed from trust status, such water rights having a priority as of the date of the creation of the Lummi Indian Reservation." 51/

In that sentence, the Lands Division attacks, not only the tribal Winters rights to the use of water on behalf of non-Indians, but it likewise espouses the concept that the non-Indian purchaser would be entitled to the same priority as that of the Lummi Indian Tribe. In light of that attack upon the Lummi rights, it is incredible that Lands Division has the temerity to assert in the complaint filed in Bel Bay that it is representing the Lummi Indian Tribe. It is impossible to perceive of a more serious violation of Indian Constitutional and civil rights than for Lands Division to "appear" to represent the Lummi Tirbe and then to attack the Tribe's rights. As reviewed, the Lummis intervened in Bel Bay to protect themselves from Lands Division.

Further following the lead of the Solicitor, the Lands Division espouses the same erroneous concepts that the Solicitor has adopted relative to the expanded use of water by a non-Indian subsequent to the acquisition of formerly allotted lands. Reference is again made to the motion of the Lands Division for partial summary judgement in the Bel Bay case. There, this statement is made:

51/ Motion for partial summary judgement dated October 14, 1976, by Lands Division in the Bel Bay case, pg. 2, of the motion, lines 15-21.

> "With respect to the defendants' rights to the use of water on these lands following the transfer of Indian to non-Indian ownership, the right to the use of water will, as a matter of law, be determined on the basis of the date upon which waters were actually placed in beneficial use." 52/

In the memorandum of Points and Authorities in support of Lands Division's motion for partial summary judgement, the Lands Division reviews in detail the concepts which appear in the attached Solicitor's letter. In different language, the same disastrous results are achieved against the Lummi Indian Tribe and all the Indians, as will be achieved by the Solicitor's Office if the "Proposed Rules" are adopted.

Under the heading of "What is the Nature of the Water Rights of the Defendants?" the Lands Division pursues the same fallacious misunderstandings of the Solicitor's Office, all as reviewed above. It then concludes, in error, based on the Hibner case, that the defendants in the Bel Bay case,

> "*** would succeed to a right to the use of whatever quantity of water was being utilized by the previous Indian allottee when the lands were removed from trust status. Such a right would have a priority date as of the date of the creation of the reservation." 53/

In effect, the memorandum of Points and Authorities, filed by the Lands Division is identical with the position taken by the Solicitor's Office and that stated in the motion. Once again, as reiterated and re-emphasized, attacks of that nature by the Lands Division upon the Lummi Indian Tribe are unconscionable Continuing with the misconceptions of the Solicitor as to meaning of the Hibner case and its inapplicability to the Bel Bay case, the Lands Division says this:

52/ Partial summary judgement, dated October 14, 1976, pg. 2, lines 23-27.

53/ Memorandum in support of motion for partial summary judgement, Bel Bay case, pg. 22, lines 14-19.

> "With respect to the rights to the use of water of these lands following the transfer from Indian to non-Indian ownership, the right to use water would be predicated on the application of a given amount of water to beneficial use, with a priority as of the date of such use." 54/

Manifestly, the Lands Division, while purporting to represent the Lummi Tribe, is vigorously expounding the right of the non-Indians to expand their use of water, applying water title to the use which resides in the Tribe, but without authority from the Tribe for that water use. The unconscionable nature of this conduct must be considered in detail when the "Proposed Rules" are being reviewed. Quite obviously, the tone and temper of the "Proposed Rules," although deceptive in nature, are identical in concept with the Solicitor and the Lands Division in the attack upon the Winters rights of the Indian people. It is of interest that the Lands Division, having no authority to support its position in regard to the seizure of Indian rights to the use of water for the benefit of non-Indians, comes forth with this policy pronouncement, which had to be fabricated for this particular motion for partial summary judgement. The Lands Division says this,

> "Such a right is in keeping with federal policy and the local rules and customs relating to appropriation by non-Indian settlers of waters in the arid West as evidenced by the Desert Capitalized Lands Act and its predecessor."

That statement is ridiculous in the light of the Pelton case 55/ and other cases on the subject. It is highly inappropriate for the Lands Division to announce false policy determinations diametrically opposed to the law as enunciated by the courts both as to Indian Winters rights or the vastly different rights claimed by the National Government.

54/ Id., lines 20-24.

55/ Federal Power Commission v. Oregon, 349 U.S. 435, 448 (1955).

III. SUPPRESSION OF TRIBAL POWER OF SELF-DETERMINATION AND SELF-GOVERNMENT CONSTITUTES METHODS USED BY THE SOLICITOR AND LANDS DIVISION TO VIOLATE TRIBAL RIGHTS

A. Solicitor's Arbitrary and Capricious Conduct Violate Tribal Titles and Powers

Reference has previously been made to the Congressional will that the Secretary of the Interior may prescribe rules and regulations for the just and equal distribution of water "among Indians residing" on reservations requiring water for agriculture. 56/ That Act, 25 U.S.C. 381, in the "Proposed Rules," is grossly misinterpreted to:

> "require the tribes to accept conditions to the approval of their water codes which will force them to (a) share their Winters rights with non-Indian purchasers of allotted lands; (b) share their priorities with non-Indian purchasers of allotted lands; and (c) restrict the tribes from regulating, under their water codes, the expanded use of water by non-Indians after the acquisition of formerly allotted lands." 57/

Arrogant suppression of Western Indian people and the confiscation of their water rights is the history of the Solicitor's Office and Lands Division. 58/

56/ See above, footnote 3, 25 U.S.C. 381: That Act is the predicate for the "Proposed Rules."

57/ See above, pg. 28, attached "Proposed Rules," pg. 14886, Part 260.3, (i)(ii).

58/ See Federal Encroachment on Indian Rights, an Impairment of Reservation Development, pg. 460, 492 et seq., in Subcomm. on Economy in Government of the Joint Economic Comm., 91st Cong., 1st Sess., Towards Economic Development for Native American Communities Comm. (1969). Reprinted in Hearings on Administrative Practices and Procedures relating to Protection of Indian Natural Resources before the Subcomm. on Administrative Practice and Procedures on Senate Comm. on the Judiciary, 92nd Cong., 1st Sess., Part 1 at 175, 191-92 (1971).

It is clear from the reliance by the Solicitor upon 25 U.S.C. 381 and the attempted delegation of Secretarial power pursuant to it to the tribes, that the Solicitor, in error, is in effect denying that the tribes have authority to administer their own Winters rights. That is contrary to the law. Manifestly, the tribal authority to manage their own affairs and their Winters rights is inherent. Long before the non-Indians "discovered" the North American Continent, the tribes had their property, their own laws, and institutions. They effectively maintained their jurisdiction over their domain by force of arms where necessary. 59/ They could and did, by the exercise of their sovereign power, wage war and conclude treaties of peace among themselves and later with foreign powers and the National Government. At no time has the Congress stripped from the tribes their title to and their powers to administer their Winters Doctrine rights to the use of water. Hence, the attempted utilization of the Secretarial power, under 25 U.S.C. 381, is an effort by the Solicitor's Office to restrict the tribal sovereign power to administer those rights.

Under those circumstances, it is of imperative necessity that the tribes reject the "Proposed Rules," for a different course would indicate by their acceptance of the Solicitor's erroneous concept that they do not have their own power to administer their rights. It, of course, could be interpreted that the only way the Solicitor's Office can effectively represent their principle constituents, the non-Indians, is to limit the tribal authority in the manner that 25 U.S.C. 381 has been interpreted by the Solicitor's Office

---

59/ Worcester v. Georgia, 31 U.S.C. 515; 6 Pet. 515, 557 (1932); McClanahan v. Arizona, 411 U.S. 164, 168 (1973).

in the formulation of the "Proposed Rules." The latter, perhaps, is the better interpretation and the best basis for comprehending the activities of the Solicitor in developing those "Proposed Rules."

B. Restrictions Relative to Irrigation Projects Further Evidences Attack Upon Tribal Powers and Tribal Rights

One of the conditions of approval of Indian water codes as contained in the "Proposed Rules," is tribal agreement that "the code does not seek to regulate rights to the use of water granted or created by federal statutes to purchasers of land within an irrigation project located within any Indian reservation and administered by the Bureau of Indian Affairs ***" 60/ Again, the language used in the "Proposed Rules" is an attack upon the titles of the tribes to Winters Doctrine rights to the use of water within irrigation projects constructed on their reservations. The language utilized constitutes an agreement by the tribes — to their irreparable damage — that title to their Winters rights resides with the project. Equally important is the fact that the language used constitutes a harsh anti-Indian legal interpretation that the tribes are without power and authority to administer the invaluable rights used on those projects. Once again, the Solicitor, violating the canons of legal ethics, actively supports non-Indians and attempts to force legal concepts upon the Indians to their irreparable damage.

Under no circumstances should the tribes agree that their tribal water codes, exempt from their operation of the irrigation projects which have the most valuable lands and the most valuable Winters rights to the use of water within their reservations.

60/ Attached "Proposed Rules," Part 260, sec. 260.3(5).

C. Appeals Process Further Impinges on Tribal Rights and Tribal Authority

The appeals process, as set forth in the "Proposed Rules," is totally unmanageable. It forces the tribal codes to contain provisions that appeals will be "within the jurisdiction of the Board of Indian Appeals of the Office of Hearings and Appeals, Office of the Secretary of the Department of the Interior." That provision is wholly unsatisfactory. 61/ Quite obviously, it is the intention of the Solicitor's Office to obtain and retain control — to the greatest extent possible — of all aspects of the operations of the "Proposed Rules."

By forcing the appeals into the Office of Hearings and Appeals within the Department, the chance of a fair hearing would be governed by the extent of the Solicitor's participation in the appeals. Undoubtedly, to the fullest extent possible, the spurious interpretation of Powers, Hibner and the other distortions of the law, which have been reviewed above, would be applied on an appeal, if the Solicitor's participation was in any way permitted. Adherence to those concepts are manifested with the grave threats to the Indian tribes in both the Walton and Bel Bay cases. It is impossible to believe that the same course would not be followed in regard to administrative appeals.

Quite aside from the unconscionable conflicts of interest of the Solicitor's Office, the outcome of appeals in regard to the tribes, the process proposed is highly objectionable. Forcing appeals into the ponderous and slow-moving bureaucracy is completely unsatisfactory. When conflicts occur over rights to use of water during a period of shortage, there is an imperative necessity of expeditious resolution of them if irreparable damage is to be avoided. That expeditious disposition of matters is impossible in the Office of Hearings and Appeals.

61/ Attached "Proposed Rules," pg. 14887, Part 260, sec. 260.6, "Appeals."

Provisions have been made in the Colville Water Code for immediate appellate action within the tribal areas with redress to the local federal court if desired. That is the only reasonable and sensible proceeding to which there should be adherence. Expeditious disposition of conflicting claims to water during periods of shortage will be the true measure of the value of any tribal water code.

Reference is again made to the history of water codes, all as set forth above. There is emphasized that the Colville Tribes and the other tribes diligently endeavored for the last decade to establish water codes suited to their reservations and needs. One of the immutable criterion was, and is, that control, management and administration of water resources must be maintained on the reservation. That circumstance ensues because the process of regulation or rotation of meager water supplies is a day-to-day, even hourly, decision-making process.

Neither the Bureau of Indian Affairs nor the Solicitor's Office have the personnel or the funds to administer the water codes as prepared. Moreover, if they were to control the water resources on the reservation as the "Proposed Rules" contemplate, it is manifest that the great need for local, immediate decisions would be defeated. That is the primary reason, strictly from the standpoint of administration that the "Proposed Rules" are inadequate. They are representative of why the tribes have universally resisted the intrustion into reservation management of the cumbersome bureaucratic concepts which are all pervasive in the "Proposed Rules." Quite obviously, the "Proposed Rules" would permit a further building of an already unwieldy bureaucracy and would afford an opportunity for further suppression of the tribal powers and the substitution of those powers by the bureaucratic attempts to usurp the inherent authority of the tribes.

IV. TRUST VIOLATIONS OWING TO THE INDIAN TRIBES PREVADE ALL ASPECTS OF THE "PROPOSED RULES"

A. "No Self-Respecting Law Firm *** would allow itself to occupy the position of the Solicitor and Lands Division respecting the "Proposed Rules" 62/

Conflicts of interest within the Solicitor's Office are all pervasive. Historically, the Solicitor's Office and Lands Division have espoused non-Indian claims to water and non-Indian water projects against the Indian nations, tribes and people. When the Secretary's interest conflicts with Indian interest, they invariably support the Secretary. Their conduct, in advocating the "Proposed Rules" and the anti-Indian rationale adhered to in the formulation of the "Proposed Rules," exemplify the disastrous consequences of those all encompassing conflicts of interest. That shameful conflict, so destructive to the Indians, gave rise to the Presidential statement, that "no self-respecting law firm **" would allow itself to be in the position of the Solicitor and Lands Division. Officials of the Interior Department have readily admitted their conflicts of interest. 63/ That conflict of interest is the overriding feature of the "Proposed Rules."

Clearly, the Solicitor's Office and clearly the Lands Division, in the prosecution of the Walton and Bel Bay cases have aligned themselves against

---

62/ Cong. Rec. Senate, July 9, 1970, pg. 10894 et seq., sec. 8, 10986.

63/ Hearings before the Subcomm. on Indian Affairs, Comm. on Interior and Indian Affairs, United States Senate, September 21, 25, 1970.

the Indian tribes. Equally clear, those are studied violations of this Nation's trust responsibility to the Indian people. It is an anamoly that the unethical conduct would go to the extent that is found in the "Proposed Rules."

B. Violation of the Trust Obligation Requires Rejection of "Proposed Rules"

In the law of trust, there is an unvarying obligation: "The trustee is under a duty to administer the trust solely in the interest of the beneficiary." 64/ That review of the trustee's obligation owing to the Indian people and the Solicitor's violation of it was re-emphasized by Reid Chambers, former Associate Solicitor, Indian Affairs, Department of the Interior. 65/

In regard to this Nation's trust obligation owing to the Indian tribes, a court had this to say: The United States owes to the Indians "the most exacting fiduciary standard." 66/ It is evident that the Solicitor's Office, as an agent of the trustee United States, violated its obligation to prepare the "Proposed Rules" in a manner that meets the highest standards of

---

64/ Federal Encroachment on Indian Water Rights and the Impairment of Reservation Development in Subcomm. on Economy in Government of the Joint Economic Comm., 91st Cong., 1st Sess., Comm. Towards Economic Development for Native American Communities Comm. (Print. 1969) pgs. 460, 490-493; Reprinted in Hearings on Administrative Practices and Procedures Relating to Protection of Indian Natural Resources before the Subcomm. on Administrative Practice and Procedure of the Sen. Comm. on the Judiciary, 93rd Cong., 1st Sess., Part 1 at 175, 191-192.

65/ Chambers, Discharge of Federal Trust Responsibility to Enforce Claims of Indian Tribes: Case Studies of Bureaucratic Conflicts of Interest Comm. in Subcomm. on Administrative Practices and Procedures of the Senate Comm. of the Judiciary, 91st Cong., 2nd Sess., A Study of Administrative Conflicts of Interest in the Protection of Indian Natural Resources, 11 Comm. Print. 1971, Reprinted in the Hearing on Administrative Practices and Procedures Relating to the Protection of Indian Natural Resources before the Subcom. on Administrative Practices and Procedures of the Senate Comm. on the Judiciary, 92nd Cong., 1st Sess., Part 1 at 235, 238-248 (1971).

66/ Navajo Tribe of Indians v. U.S., 364 F.2d. 320, 322 (Ct. Cls. 1966).

fidelity. They should be prepared with the objective of protecting the Indian interest -- rather than violating it. Performance by the Solicitor's Office of its responsibilities must be with the highest care, skill and diligence in the furtherance of the Indian interests. The "Proposed Rules" are a frivolous violation of those standards.

Applying the standards of the trustee to the deceptive, violative, and suppressive "Proposed Rules," it is apparent that the Solicitor has made a travesty of the trust responsibility owing to the Indian people. As a consequence, those "Proposed Rules" must be rejected out of hand. That conclusion is, of course, equally applicable to Lands Division conduct of the Walton and Bel Bay cases.

There can be no other recommendation than that the "Proposed Rules" be withdrawn. That alone will not suffice. The "Proposed Rules" are but manifestations of the arrogant violations of the trust obligations by the Solicitor's Office and the Lands Division stemming from their all encompassing conflicts of interest. Corrective measures must immediately be taken to preculde the Solicitor's Office and Lands Division from forcing their concepts upon Indian nations, tribes and people against the will of the Indian people.

National Congress
of American Indians

Mel Tonasket

Mel Tonasket
President

IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR

28 1976 SEP

Honorable Peter R. Taft
Assistant Attorney General
Land and Natural Resources Division
Department of Justice
Washington, D.C. 20530

Dear Mr. Taft:

Re: United States v. Walton, Civil No. 3421, E.D. Wash.; United States v. Bel Bay Community and Water Association, Civil No. 303-71C2. W.D. Wash.

As you know, by letters of September 14, 1971 and February 2, 1973, we asked your Department to file the above actions. In these letters, we asked you to take the position "that the Secretary of the Interior has the exclusive jurisdiction to control and administer the allocation of waters on tribal, allotted and formerly allotted lands" on the Colville and Lummi reservations pursuant to 25 U.S.C. §381. We also asked you to assert that the State of Washington has no authority to issue water permits to non-Indians on these reservations, and that the state should be enjoined from issuing such permits.

These cases have been pending for several years. The United States and the tribes have undertaken numerous studies. From these studies and through discovery, the facts involved in these cases have been clarified. Also, our views of the proper legal theories to be espoused have undergone considerable refinement and some alteration. After much deliberation, and after meetings with you and your staff, we sent you a letter on July 2, 1976, proposing a different legal position in these cases. You responded to that letter with additional proposals on July 19, and we have since that date had a number of further discussions. We now propose that the legal position to be asserted by the United States should be modified as follows.

There are two basic questions:

> (1) Do Indian allottees and non-Indian successors in interest to Indian allottees hold any portion of the Winters Doctrine reserved right to the use of water?
>
> (2) What is the respective extent of the authority of the Secretary, the state and the tribes to regulate the use of waters on Indian reservations.?

Our analysis of the legal questions follows.

I

On the first question, our views are unchanged from our July 2 letter and we understand that you agree with them. We believe that the Indian allottees and their non-Indian successors in interest do hold some reserved rights to the use of water. The only Supreme Court decision which speaks to this question is United States v. Powers, 305 U.S. 527 (1939). In Powers, the United States brought suit to enjoin the non-Indian successors in interest to certain Indian allottees on the Crow Reservation in Montana "from using or diverting any water from two streams on the Reservation." The United States contended that Congress had given it ownership and control of all reserved waters on the Crow Reservation. The Secretary of the Interior had constructed certain irrigation projects prior to making allotments of reservation lands, and the United States argued that this construction plus its ownership and control of the reserved waters "sufficed to dedicate and reserve sufficient water for full utilization of these projects." 305 U.S. at 532.

The Court rejected the government's position, and appeared to accept the arguments of the non-Indian water users. It said:

> "respondents maintain that under the Treaty of 1868 waters within the reservation were reserved for the equal benefit of tribal members (Winters v. United States, 207 U.S.

> 564) and that when allotments of land were duly made for exclusive use and thereafter conveyed in fee, the right to use some portion of tribal waters essential for cultivation passed to the owners.
>
> "The respondents' claim to the extent stated is well founded." (Id at 532)

The Court concluded:

> "The petitioners have shown no right to the injunction asked. We do not consider the extent or precise nature of respondents' rights in the waters. The present proceeding is not properly framed to that end." (Id. at 533) (emphasis added).

The interpretation of Powers as holding that allottees and their successors in interest succeed to some reserved water right finds support in subsequent cases. E.g., Preston v. United States, 352 F.2d 352 (9th Cir. 1965); Segundo v. United States, 123 F. Supp. 554 (S.D. Cal. 1954). This office has been vigorously urged by the Commissioner of Indian Affairs, supported by the Associate Solicitor for Indian Affairs and the Colville and Lummi tribes, to adopt a litigating position that Powers does not compel the conclusion that allottees and their successors in interest succeed to a reserved water right. Their argument is that this question was not directly contested or presented before the Court in Powers or in subsequent cases like Segundo and Preston, and that the holding in Powers was simply that the United States was not entitled to the extraordinary relief of an injunction on the theories it advanced in that case. Under their view, the language quoted above in Powers is mere dictum. Moreover, they assert that under ordinary principles of Indian law, the tribal ownership of Winters Doctrine water rights has never been clearly and expressly transferred by Congress, and must therefore remain in the tribe. We have carefully considered and reflected on this argument, but decided to reject it.

One district court case, United States v. Hibner, 27 F.2d 909 (D. Ida. 1928), considers the question--left open by Powers--of the scope of the allottees' right and that of their successors in interest. In Hibner, the court extended an earlier case */--which held that the leasing of allotteed lands to a non-Indian did constitute the abandonment of the individual water right expressly created by the 1898 agreement with the Shoshone-Bannock Tribe of the Fort Hall Reservation--to hold that sale of an allotment did not extinguish the allottees' reserved water right. The Court first stated:

> "a purchaser of such land and water rights acquires, as under other sales, the title and rights held by the Indians, and there should be awarded to such purchaser the same character of water right with equal priority as those of the Indians. (Id. at 912)."

The court then held, however, that "the status of the water right after it has passed to others by the Indians seems to be somewhat different from while such right is retained by the Indians." (Id.) The court stated that the non-Indian is "entitled to a water right for the actual acreage that was under irrigation at the time title passed from the Indians, and such increased acreage as he might with reasonable diligence place under irrigation, which would give to him, under the doctrine of relation, the same priority as owned by the Indians." Thereafter, the non-Indian can secure a state law right to appropriate additional waters with a priority date as of the time of commencing those later appropriations. The court reasoned, plausibly, that when the water right passed out of trust status, the purpose of the reservation no longer required a reserved water right which expands to satisfy future needs. The court gave as its reason that

*/ Skeen v. United States, 263 Fed. 93 (9th Cir. 1921).

> "the principle invoked by the courts for the protection of the Indian as long as he retains title to his lands does not prevail and apply to the white man, and the reason for so holding is that there was reserved unto the Indians the absolute right to own and use in their own way the water for their lands, while the white man, as soon as he becomes owner of the Indians lands, is subject to those general rules of law governing the appropriation and use of the public waters of the state."

We ask you to take the position that the scope of the reserved right which passes to allottees and successors in interest pursuant to Powers is that set forth in Hibner except that we ask you to argue that the non-Indian's reserved right should be limited to the water actually used by the Indian predecessor. We think that--as the court noted--the federal purpose for an expandable Winters type reserved right ceases when the lands pass out of trust. A non-Indian purchaser, therefore, would get a Winters Doctrine priority to the amount of water used when the land was in trust. The successor in interest can expand his use thereafter, but we believe that principles of state law (and a later priority date) should cover this later use.

II

It remains to discuss the respective authority of the Secretary, the state and the tribe to regulate the use of water on Indian reservations.

Section 7 of the General Allotment Act of 1887, 25 U.S.C. §381, is the only provision conferring jurisdiction on the Secretary to regulate use of reservation water rights. It reads:

> "In cases where the use of water for irrigation is necessary to render the lands within any Indian reservation available for agricultural purposes, the Secretary of the Interior is authorized to prescribe rules and regulations as he may deem necessary

> to secure a just and equitable distribution thereof among Indians residing upon any such reservations; and no other appropriation or grant of water by any riparian proprietor shall be authorized or permitted to the damage of any other riparian proprietor."

We stated on July 2 that in our view Section 381 does not confer jurisdiction on the Secretary--exclusive of tribes--to regulate all uses of water on Indian reservations. First, the statute is limited to "water for irrigation." Secondly, the statute authorizes the distribution of this water "among Indians residing upon [the] . . . reservation." This confers no authority upon the Secretary to deliver any water to non-Indians. Moreover, the Secretary's authority to regulate any water use by non-Indians under this statute is very doubtful; at most, it would seem he could stop uses of water by non-Indians that interfere with Indian uses.

In your July 19 response, you indicated that a somewhat broader view of Section 381 would be supportable. Since it applies to allotments, you suggest that it could extend to "patented lands," and thus to non-Indians. You also indicated that, in your view, Section 381 would not prohibit the tribes from exercising control over the reserved water rights (from our discussions, we have agreed that this means waters used on trust lands and the first component of the rights described in Hibner) so long as the exercise of this tribal authority was consistent with the trust responsibility of the United States with respect to the lands.

Although we recognize that a more expansive interpretation of Section 381 could be argued to a court, we do not choose to adopt that construction of the statute. However, we have jointly formulated a proposal which will make resolution of this issue, and the question of the precise extent of tribal jurisdiction, unnecessary. Under Section 381, the Secretary has authority "to prescribe rules and regulations deemed necessary to secure a just and equal distribution of waters." We propose that this Department

will adopt regulations under Section 381 delegating substantial regulatory authority to the tribes to adopt water codes on particular reservations. These regulations will state that the Department will approve individual tribal water codes regulating the use of water reserved under the Winters Doctrine on the tribe's reservation so long as the following conditions are met:

> (1) The tribal code provides acceptable due process procedures to protect the rights of persons subject to them, ultimately permitting judicial review of determinations in the federal courts;
>
> (2) The tribe establishes institutions that are adequate to administer the water code;
>
> (3) The tribal code provides that it does not divest any valid rights under federal law as may be established by courts of competent jurisdiction;
>
> (4) The tribe seeks only to regulate the use of reserved water rights, which includes tribally owned water rights, rights owned by allottees, and the "first component" of the rights described in Hibner;
>
> (5) The tribal water codes would not regulate the use of water within statutory irrigation projects on the reservation with water rights created by federal statutes.

It is our intention to proceed forthwith with the drafting of such Departmental regulations and to publish them as proposed rulemaking in the Federal Register for public comment. As we prepare the precise regulations, the general conditions suggested above will, of course, be honed in greater detail. We will do this in close

consultation with Myles Flint of your office. We are furnishing you, however, with this outline of the regulations at the present time to enable you to meet the court deadline of October 8 in Bel Bay case.

This proposal obviates the necessity of adopting a position as to the precise scope of Section 391 authority and of tribal jurisdiction as far as non-Indians are concerned. By combining the governmental powers of the Secretary and the tribe, federal-tribal authority is exercised. It does not matter, for example, whether the tribe in its adoption of tribal water codes is exercising delegated authority or inherent tribal power. See United States v. Mazurie, 419 U.S. 544 (1975).

It remains to discuss the "second component" of the Hibner test. In our July 2 letter, we asked that you take the position that states have a limited authority to issue permits to non-Indian landowners on an Indian reservation who claim a right to use water pursuant to this "second component;" that is, an appropriative type right to the use of water under state law principles with a priority date after their purchase of their former trust allotment. We have carefully considered the conclusions in your July 19 letter that such questions are ones of federal (not state) law, that administration of such rights should not be subject to state jurisdiction, but that federal law may incorporate state law concepts such as the prior appropriation doctrine for purposes of interrelating the rights of non-Indians under the Hibner case to Winters Doctrine rights. As you reasoned in that letter, state jurisdiction over the use of water derives from the Desert Lands Act of 1877, 19 Stat. 377, 43 U.S.C. 8321, and its predecessors. That Act confers plenary control on states over nonnavigable waters on the public domain. See Cappaert v. United States, ___ U.S. ___, 44 L.W. 4756 (June 7, 1976); FPC v. Oregon, 349 U.S. 435 448 (1955); Power Co. v. Cement Co., 295 U.S. 142, 158, 163-164 (1935). Reserved lands held in trust for an Indian tribe or withdrawn from the public domain for other uses are obviously not public lands, and the state has no power to regulate the exercise of reserved water rights. E.g., United States v. McIntire, 101 F.2d 650 (9th Cir. 1939).

When lands within the exterior boundaries of an Indian reservation pass out of trust status and into fee, they do not become public lands nor do they become a portion of the public domain in the sense that they are subject to sale or other disposition under the general land laws. See Union Pacific R.R. Co. v Harris, 215 U.S. 386, 388 (1909); Ash Sheep Co. v. United States, 252 U.S. 159, 166 (1920); Seymour v. Superintendent, 368 U.S. 351, 355 (1961); Matts v. Arnett, 412 U.S. 481, 497 (1973). Rights to the use of water on these lands, even when in fee ownership, would accordingly, be determined by federal law rather than state law. See United States v. McIntire, 101 F.2d 650, 653-654 (9th Cir., 1939); Tweedy v. Texas Company, 286 F. Supp. 383, 395 (D. Mont. 1968) United States v. Ahtanum Irrigation District, 236 F.2d 321 (9th Cir.) cert. den. 352 U.S. 988 (1957). Since in these cases the State of Washington can only exercise jurisdiction over the use of water as derived from the Desert Lands Act, this does not provide any basis for jurisdiction by the State on either reservation. We have decided to concur in your analysis and conclusions, and therefore ask you to continue to assert that the regulation of the use of water on tribal lands, trust allotments and formerly allotted lands is exclusively a matter of federal and/or tribal jurisdiction.

While, the second component of the Hibner right is derived from federal law, and subject to federal jurisdiction, we do not believe, it has any characteristics of a federally reserved water right. Accordingly, we do not support tribal jurisdiction over this use of water. Federal statutory law is silent on the administrative regulation of this use of water. As you point out in your July 9 letter, federal law would apply, and incorporates state law doctrines. If a landowner were to exceed his rights under this second component, and interfere with reserved rights, we believe the proper remedy would be an injunctive action in federal court against him (or, alternatively, a general quiet title adjudication looking toward a decree administered by a water-master). There would, in our view, be no proper tribal administrative remedies.

At this juncture, an illustrative example may be helpful. If a reservation were established in 1860, and allotted in 1900, and an Indian allottee had applied 5 acre feet of water annually to his allotment before it passed out of trust in 1940, the non-Indian successor of interest would have a Winters type reserved water right to use 5 acre fee with an 1860 priority date (or an immemorial priority in appropriate circumstances). If he then applied a total of 20 acre feet after 1940, he would have an additional 15 acre feet with a 1940 (or later) pridrity. This second component (with the 1940 or later priority) of the Hibner right would be junior to all reserved rights. These reserved rights (including the 5 acre-foot right which is the "first component" of Hibner) would be regulated by an approved tribal water code. If the landowner exceeded his reserved rights, and the persons entitled to reserved rights (as determined pursuant to the tribal code by, for example, the issuance of permits) were injured, their remedy or that of the United States as trustee would be in federal court.

This letter in its entirety supplants my letter to you of July 2, 1976, which letter is hereby withdrawn. We appreciate the mutually frank and cooperative discussions we have had with your office concerning these cases within the past few months, and hope that this produces a mutually agreeable position for both our Departments.

Sincerely,

H. Gregory Austin
Solicitor

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 260]

INDIAN RESERVATIONS

Use of Water

Notice is hereby given that it is proposed to issue Part 260 of Title 25 of the Code of Federal Regulations. These regulations are proposed pursuant to the authority contained in Section 7 of the Act of February 8, 1887 (24 Stat. 390, 25 U.S.C. 1a), Revised Statute 463 (25 U.S.C. 2) and Revised Statute 465 (25 U.S.C. 9).

The purposes of these regulations are: (a) To fulfill the Department's trust responsibility to provide a method to preserve and protect in perpetuity all rights to the use of water reserved for the benefit of the Indians; (b) to recognize, provide for, and assist in the exercise of the sovereign authority of Indian tribes within their reservations to govern the use of all reserved water rights therein; (c) to provide for the delegation to Indian tribes of the Secretary's authority to prescribe rules and regulations distributing water on Indian reservations to persons and entities entitled to use reserved water rights; and (d) to provide for the present and future development of Indian reservations, including Indian Pueblos, through the use of their reserved water rights.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly interested persons may submit written comments, suggestions, or objections regarding the proposed regulations to the Commissioner of Indian Affairs, Department of the Interior, Washington, D.C. 20240, by April 18, 1977.

It is proposed that Part 260 of Title 25 of the Code of Federal regulations will read as follows:

PART 260—THE USE OF WATER ON INDIAN RESERVATIONS

Sec.
260.1 Definitions.
260.2 Purposes.
260.3 Approval of tribal water codes.
260.4 Codes with individual water permits.
260.5 Nontribal water codes.
260.6 Appeals.

AUTHORITY: Sec. 7, Act of February 8, 1887 (24 Stat. 390, 25 U.S.C. 381), Act of August 9, 1955 (69 Stat. 539, 25 U.S.C. 1a) Revised Statute 463 (25 U.S.C. 2) and Revised Statute 465 (25 U.S.C. 9).

§ 260.1 Definitions.

(a) "Secretary" means the Secretary of the Interior or his delegated representative.

(b) "Reserved water rights" means those rights to the use of waters recognized as reserved in accordance with the principles enunciated in *Winters v. United States*, 207 U.S. 564 (1908), and subsequent cases, which rights have either an immemorial priority or a priority date as of the establishment of the reservation.

(c) "Beneficial use" means any use of water, consumptive or otherwise, for agricultural, domestic, municipal, commercial, industrial, aesthetic, religious, or recreational purposes, or for the maintenance of adequate stream flows for fishery, environmental, or other beneficial purposes on an Indian reservation.

(d) "Just and equitable distribution of reserved water rights" means a method of allocating the available water among those entitled thereto in such a manner that all those similarly situated will be given an equal opportunity to make beneficial use of the water, the allocation being in such a manner as to alleviate hardship where possible.

(e) A "water code" or "code" shall mean ordinances, rules, and regulations adopted by the governing body of an Indian tribe which provide for regulation and control of the use of reserved water rights among those entitled thereto in accordance with the tribe's constitution, bylaws, or other applicable laws.

(f) "Indian tribe" or "tribe" means a tribe, band or identifiable group of Indians owning water rights for which the United States has a trust responsibility.

(g) A "use-by-use basis" means that a separate permit shall be issued for each separate use of water which shall contain all pertinent information with respect to that use. However projects such as irrigation projects may file a single consolidated application describing the exact land to be served, each use planned and the amount, period, and nature thereof.

§ 260.2 Purposes.

The purposes of these regulations are:

(a) To fulfill the Department's trust responsibility to provide a method to preserve and protect in perpetuity all rights to the use of water reserved for the benefit of the Indians;

(b) To recognize, provide for, and assist in the exercise of the sovereign authority of Indian tribes within their reservations to govern the use of all reserved water rights therein;

(c) To provide for the delegation to Indian tribes of the Secretary's authority to prescribe rules and regulations distributing water on Indian reservations to persons and entities entitled to use reserved water rights; and

(d) To provide for the present and future development of Indian reservations, including Indian Pueblos, through the use of their reserved water rights.

§ 260.3 Approval of tribal water codes.

(a) Any Indian tribe may adopt, with approval of the Secretary, and enforce a water code to control, distribute, allocate and regulate the use of reserved water rights on its reservation for a beneficial use by any person or entity, including non-Indian persons and entities, that may be entitled to exercise such reserved water rights. Upon adoption, this water code shall be submitted to the Commissioner of Indian Affairs who shall review the code and submit it, with his recommendation to the Secretary for formal approval or disapproval.

(b) The Secretary shall approve the code if it satisfies the following requirements:

(1) The code affords procedural due process of law to all persons claiming the right to exercise reserved water rights, by providing the following:

(i) A method for establishing the amount, nature, period, and place of use of reserved waters. That method shall be based upon the principle of a just and equitable distribution of water among those entitled to the beneficial use thereof and may include the order of tribal priorities on the use of water within the reservation.

(ii) All procedures shall permit any person who claims a right to the beneficial use of reserved waters to present his claim by application to the tribe with any pertinent evidence in support thereof. All issues will be heard by an impartial administrative official or body duly constituted by the tribe. A written decision on such application will be rendered within a reasonabl time and reasons shall be given for each decision.

(iii) Notice of hearings on all applications shall be given in a reasonable manner such as to afford interested persons the opportunity to support or contest any claimed rights.

(iv) A complete record of all applications, actions taken thereon, and any permits issued shall be maintained by the tribe and shall be open for public inspection on the reservation.

(2) The code affords aggrieved persons the opportunity to seek judicial review of administrative determinations.

(3) The tribe possesses the capacity to administer the code.

(4) The code is limited to administration and enforcement of reserved water rights as defined in this Part.

(5) The code does not seek to regulate rights to the use of water granted or created by federal statute to purchasers of land within an irrigation project located within any Indian reservation and administered by the Bureau of Indian Affairs pursuant to 25 CFR 191–202. The code recognizes the continued existence of such rights with the same priorities (relative to the reserved water rights regulated by the code) that those rights would have had absent enactment of the code.

(6) The code is subject to pertinent acts of Congress and to binding judicial decisions concerning reserved water rights.

(7) Amendments to the code require approval by the Secretary.

§ 260.4 Codes with individual water permits.

(a) At the option of the tribe, the code may adopt an individual permit system authorizing the diversion and use of water on a use-by-use basis. Where a permit system is utilized:

(1) Permits may state the amount and periods of use in terms of diversion and/or consumptive use, specify by description the tract where the use is to occur, and the nature of the use.

(2) Permits may be issued for existing and potential uses including storage.

(3) A time period may be set for exercise of each potential use upon which a permit is issued, and changes in time, place and nature of use may be permitted.

(4) A permit may be issued for each potential use established by reservation land and water use inventories.

(5) Extensions of time for exercise of the right acquired in such permit may be given upon good cause shown.

(6) All permits may be subject to such reasonable conditions as the tribal governing body or its designated administrative officials or body shall determine to be necessary to carry out the purpose of the code.

(7) Procedures may be employed for enforcement or permits and cancellation of a permit in the event of substantial violation of its conditions.

(8) Temporary use permits may be granted for limited periods pending action upon application for a regular water permit.

(b) The code may also provide that permits shall be submitted to the superintendent of the Bureau of Indian Affairs agency having jurisdiction over the reservation for his approval. Such other documents or material as are pertinent to the permit or necessary to enable him properly to review the permit shall also be submitted to the superintendent. The superintendent, after review thereof, shall, within 30 days approve the per-

mit, approve the permit on condition that modifications be made thereto, or disapprove the permit. If the permit is approved with modifications or disapproved, the superintendent shall return the permit to the governing body of the tribe or its designated administrative official or body together with a statement of the modifications needed for approval or the reasons for disapproval. When approved by the superintendent, the permit granted by the governing body of the tribe or its designated administrative official or body shall be a federal permit and be enforced as if it had been issued by the Secretary. Failure to act on the permit within 30 days of receipt by the superintendent shall constitute approval.

(c) The tribal governing body may at its discretion call upon the field offices established in 111 DM 13.5 of the Department of the Interior Manual for an Indian Affairs Administrative Law Judge to assist the tribe in the conduct of any administrative hearing it may conduct with respect to applications for water permits under its water code. The request shall be addressed to the Chief Administrative Law Judge, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Upon receipt of the request, an Indian Affairs Administrative Law Judge capable of conducting administrative water hearings shall be assigned to hold hearings and issue findings of fact and conclusions of law to assist the tribe in particular hearings at the time and place selected by the tribe. Such hearings shall be conducted pursuant to 111 DM 13 and 211 DM 13.7 of the Department of the Interior Manual.

(d) The code may, in addition to the requirements in Part 260.3(b), contain any other lawful provision.

§ 260.5 Secretarial water codes.

(a) If a tribe fails to enact an approved water code for its reservation and the Secretary finds that such a code is necessary to preserve and protect the reserved water rights of the Indians, the Secretary shall notify the tribe in writing of such need and offer assistance in the preparation of an acceptable water code. If such tribe notifies the Secretary that it elects not to enact a water code or if the tribe does not respond within 60 days from the date of the request, the Secretary may prepare and publish a water code for such reservation. The water code shall cover at least the areas set forth in Part 260.3(b) above, and shall otherwise comply fully with these regulations.

(b) In this code, the Secretary may act on behalf of the tribe in the issuance of permits and the regulation of the reserved water rights of the reservation.

(c) When said water code has been completed, it shall be submitted to the governing body of the tribe of the reservation for its review and comment thereon and to make revisions thereto, following which the water code shall be enforced by the Secretary as to the reservation covered by such code.

(d) The code may be amended by the Secretary from time-to-time subject to rights under existing permits after submitting such amendments to the governing body of the tribe for its approval. *Provided, however,* That any amendment shall become effective if the tribe neither approves nor disapproves the amendment within 60 days.

(e) The tribe may replace such a code with one adopted by it at any time, or it may amend the code, with approval of the Secretary.

§ 260.6 Appeals.

Where the provisions of §§ 260.4 and 260.5 have been utilized, appeals from the superintendent's approval of the permit or other determinations of the superintendant or other Department officials concerning any person's right to the use of water shall be within the jurisdiction of the Board of Indian Appeals in the Office of Hearings and Appeals, Office of the Secretary, Department of the Interior. A hearing shall be held on the appeal by the Board at which the tribe and the appealing party may appear and present evidence and argument. When practicable, this hearing shall be held on or near the reservation. A determination by the Board of Indian Appeals shall be final and there shall be no further administrative remedy available.

Dated: March 7, 1977.

CECIL D. ANDRUS,
Secretary of Interior.

[FR Doc.77-7389 Filed 3-18-77;8:45 am]

NATIONAL INDIAN EDUCATION ASSOCIATION

Board of Directors

SUSAN ARKEKETA, Otoe/Creek
LEONARD BEARKING, Sioux
EDWARD BENTON (BANAI), Ojibwa
ALLAN J. CALDWELL, Menominee
CHESTER J. EAGLEMAN, Sioux
LUCILLE ECHOHAWK, Pawnee
LLOYD ELM, SR., Onondaga-Oneida
BONNIE HERNANDEZ, Seneca
PATRICIA LOCKE, Chippewa/Sioux
LANCE LUJAN, Kiowa/Taos
JULIANE A. MONETTE, Chippewa
GARY PRETTY PAINT, Crow
DR. RICK ST. GERMAINE, Ojibway
HERSCHEL "ACE" SAHMAUNT, Kiowa
DOROTHY SMALL, Chippewa-Cree

1115 SECOND AVENUE SOUTH
IVY TOWER BUILDING
MINNEAPOLIS, MN 55403
PHONE 612 333-5341

ANDREW P. LAWSON
Tumahan
Executive Director

25 April 1977

Senator James Abourezk
Chairman, American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2nd and D Streets, S.W.
Washington, D. C. 20515

Dear Senator Abourezk:

The National Indian Education Association, with the concurrence of the Education Committees of the National Tribal Chairmen's Association and the National Congress of American Indians, herewith submit to the AIPRC a statement of comment and recommendations related to Indian education.

We respectfully request that you accept and add our comments and recommendations as an addendum to the Task Force Five Final Report on Indian Education of the American Indian Policy Review Commission and to the Final Report under the heading of Social Services.

Sincerely,

Patricia Locke

Patricia Locke, President
National Indian Education Association

CC: Georgiana Tiger
Lawrence Snake
Ernie Stevens, Executive Director
Enclosure: Statement

PL:mjc

STATEMENT

National Indian Education Association (NIEA)
Education Committee: National Congress
of American Indians (NCAI)
Education Committee: National Tribal
Chairmen's Association (NTCA)

COMMENTS ON PROPOSED LEGISLATION (p. 281-294)

In previous and separate letters and resolutions from each of the above organizations, strong objections were voiced regarding the proposed Indian Education Act of 1977 to establish a National Indian Education Commission and to establish a National Trust Fund for Indian Education. While we agree that consolidation and coordination of Indian education programs is desirable, we continue to reject the particular proposed plan for an Indian Education Act of 1977 as described in Section VII - Proposed Legislation, of the Task Force V Report.

Any such proposed legislation should have the prior approval and endorsement of the National Tribal Chairmen's Association, the National Congress of American Indians and the National Indian Education Association.

We will propose alternative recommendations to strengthen Indian education.

COMMENTS ON RECOMMENDATION THAT A SINGLE FEDERAL AGENCY SHOULD BE ESTABLISHED FOR INDIAN EDUCATION

We recommend that policies be defined, programs initiated and strengthened and reforms made within the Education Office of the Bureau of Indian Affairs, DOI. Should the tribes agree that a new independent agency would strengthen the Federal-Indian relationship and if, in the future, should such an agency be created, then education should be a part of, and not separate from, the whole. Tribes should design programs and structure prior to establishment of a consolidated Indian Agency.

At present, the National Indian Education Association and the Education Committees of NCAI and NTCA, cannot respond to AIPRC's recommendation that a single federal agency be created for Indian education because we have not been made aware of the structure, functions and authority of such an agency as it pertains to Indian education. It is our concern that such an agency would have to insure protection of the Indian Federal Trust Relationship.

COMMENTS ON THE NEED FOR CONSISTENCY IN TERMINOLOGY AND USAGE THROUGHOUT THE SECTION ON EDUCATION (pp. 8-76 through 8-130)

Throughout the report there should be a consistent focus toward the education of Indians as benefitting members of tribes as controlled and determined by tribes. Much of the existing terminology vaguely refers to Indian "people", and "Indian" and "community" control. This is inconsistent with AIPRC recommendations relating to the tribal control of education and that education is clearly a jurisdictional right of the tribes. We strongly recommend that all references to "community", "local" and "Indian" control be deleted and that tribes or tribal control be inserted.

In the following section, issues or problems will be discussed briefly and recommendations made pertinent to the issues.

ISSUE: Need for National Indian Education Councils (BIA) to Set Policies and Priorities

Indian education policy is not now defined. There is ambiguity and vagueness in defining the "special educational needs" of Indian children in the context of the various areas of Indian education. The Office of Education-BIA does not have an institutionalized system to provide advice relating to these educational policy areas. There are many qualified Indian educators knowledgeable in specialized fields that can give advice to the BIA relating to policy issues and program planning so that Indian education could be more responsive to tribal needs. The Education Office within the Bureau of Indian Affairs must heed the advice of a formalized body of Indian educators. NIEA, NTCA and NCAI have repeatedly recommended by policy papers and resolutions that the BIA Education must establish an All Indian Council to set policy and give expert advice on programs. Such a Council should also provide appropriate advice to education related functions of BIA Employment Assistance Office and continuing education functions of the BIA's Division of Law and Order in order to support the training needs of law enforcement related services.

RECOMMENDATION

There must be established nine councils on Indian Education within the BIA to develop comprehensive policy and program planning in various fields of Indian education and specifically in the following areas:

1. Council on Early Childhood Education
2. Council on Elementary and Secondary Education
3. Council on Postsecondary Education (to include vocational, career, and adult education)
4. Council on Education and the Media (to include library programs)
5. Council on Special Education (to include handicapped, learning disabled, and gifted and talented)
6. Council on School and Plant Facilities/Operation
7. Council on Research and Development (to include development of measurement, instrumentation and accreditation)
8. Council on Teacher Training (to include the training of administrators)
9. Council on Bilingual and Multilingual Education (to include curriculum development)

Council Representation: There shall be three American Indians on each Commission. Representatives shall be recommended by the tribes and selected according to depth of knowledge in each field. After three years, Council will be composed of a total of nine members.

Terms of Service: The Council appointees shall serve 2 to 3 terms in order that there will be a revolving cycle of new representatives.

Functions of Councils: The Councils shall establish policy, program planning, and evaluation of Indian Education programs. They shall develop a priority of goals annually; they shall propose long-range budget estimates for Indian Education in the particular fields.

Each Council shall develop guidelines based on tribal recommendations relative to the licensing and certification of educational personnel.

Each Council shall develop curricular alternatives in the particular fields. Such policies shall be reflected in the BIA Manual.

ISSUE: Need for Five Indian Education Service Centers

A majority of the tribes are geographically isolated and are poor. Tribal Divisions of Education and education committees are thus denied access to available educational curricular and research materials nor do they receive adequate training and technical assistance. Tribes need these services of program planning assistance. They need to have expert advice in the band analysis planning procedure related to budgetary priorities, in curricula development, proposal writing and evaluation of programs. They need to know about exemplary Indian education programs that may be adapted and replicated. All of this assistance should be more geographically accessible.

RECOMMENDATION

There shall be established by the BIA five Indian Education Service Centers. The function of the Service Centers shall be to provide:

1. Data bank collection and retrieval and linkage and dissemination functions.
2. Technical assistance including training programs.
3. Research and development (Knowledge production and utilization).

Such Service Centers shall be located in Anchorage, Alaska; San Francisco, California; Denver, Colorado; Chicago, Illinois; and Washington, D. C. (to coincide with communications systems sites as proposed in Chapter C: Federal Administration, page 46).

The Service Centers shall be placed under the authority of the BIA-DOI but such line authority does not preclude future placement and structuring within an independent and comprehensive Agency on Indian Affairs.

Staffing for the five Education Service Centers shall be selected according to standards to be developed for the Indian Career Services' Division of Recruitment and Training that would develop avenues for the recruitment of qualified Indians as mandated by Section 12 of the Indian Reorganization Act.

The five Service Centers shall be responsible for cooperating with and assisting tribal councils and tribal Divisions or Departments of Education that have comprehensive and coordinative management of tribal education programs.

The nine National Indian Education Councils shall meet regularly at the five Service Centers in order to provide additional technical assistance and research information.

ISSUE: Need for an Indian Career Service

A policy that Indians are to receive "absolute employment preference" was first enunciated in 1882. This policy has been reaffirmed in the Indian Reorganization Act of 1934, in a 1946 solicitor general's opinion, and in a presidential policy statement in 1970. Yet in the BIA, Indians predominantly occupy low level positions and non-Indians disproportionately occupy high policy making posts. Indians constitute fully 84.6% of BIA employees in the four lowest G.S. brackets, but only 16.8% of the employees at G.S. levels 14 and above. These overall figures are similarly reflected in the BIA educational systems. Past attempts at providing inservice education training to non-Indians has been discouraging. The present Civil Service system perpetuates the situation where non-Indians are unsuccessfully teaching our Indian children and administering education programs.

RECOMMENDATION

The Congress should enact legislation establishing an Indian Career Service, independent of the Civil Service, throughout federal Indian programs now operated by the various Offices and Agencies including the Office of Indian Education OE-DHEW and the Indian Public Health Service and as authorized by Section 12 of the Indian Reorganization Act.

ISSUE: Inadequate Support for Tribally Chartered Colleges

At present, the financing of tribally chartered colleges serving members of federally recognized tribes is inequitable and insufficient. Only three tribally chartered colleges, the Navajo Community College, Rosebud's Sinte Gleska and Pine Ridge's Lakota College, are receiving BIA support. There is no comprehensive financing plan to provide basic support for the 20 tribes

now operating colleges: Rosebud Sioux, Pine Ridge Sioux, Sisseton-Wahpeton Sioux, Cheyenne River Sioux, Standing Rock Sioux, Santee Sioux, Omaha, Winnebago, Turtle Mountain Chippewa, Lummi, Blackfeet, Navajo, Tanana Chiefs, Inupiat, Northern Cheyenne, Devil's Lake Sioux, Hualapai-Havasupai, Keweenaw Bay Chippewa and Fort Berthold (Hidatsa, Mandan and Arikara). There is a lack of fiscal projections for requests for appropriations for next year and the next five years for these tribes' postsecondary education college programs. The tribally chartered colleges also need ongoing technical assistance after they are established.

Flaming Rainbow at Tahlequah, Oklahoma, the college serving the Cherokee, is also lacking BIA operational support. It is at present not tribally chartered, but its student body is 60% Cherokee. Flaming Rainbow and Inupiat are four-year institutions.

The BIA also has the responsibility to assist in the developmental aspects of tribal postsecondary programs. The following tribes are currently planning tribally chartered colleges: The Mississippi Band of Choctaw; the Crow; the Fort Belknap; the Fort Peck Assiniboine and Sioux; and the White Mountain Apache.

RECOMMENDATION

Legislation must be enacted to provide funding for the planning and development of, and for basic operational support to the tribes for their tribally chartered colleges. Support must be provided for tribes who wish to establish four year and graduate institutions. The funding process must not circumvent the tribal governments but must be consistent with P.L. 93-638.

ISSUE: Conflicting Education Decision Makers - Need for Tribal Education Divisio

All tribes do not now have full authority in fiscal matters and other policy decisions regarding education programs for their tribal members. These authorities are frequently assumed by individuals and organizations not responsible to the elected tribal governments. The result of this assumption of authority has often been fiscal and decision-making circumvention of the tribal governments. Another result has been a proliferation of education committees,

boards and organizations that frequently have overlapping and confusing programs and priorities without true attention to tribal priorities.

RECOMMENDATION

In order to ensure tribal self-determination and decision-making in all aspects of education, it is recommended that support be given to tribes that wish to initiate tribal divisions or departments of education. Tribal divisions of education would have the purpose of coordinating and consolidating all education programs within the jurisdiction of the tribe, including early childhood, elementary, secondary, postsecondary scholarship programs and career education programs such as the BIA Employment Assistance Program. Such programs as Title I, Title IV, Title VII, JOM, tribal colleges, contract schools, etc., could then be coordinated by the Tribal Division of Education in order to avoid overlap and duplication of programs and to avoid fiscal decision-making circumvention of the tribal authority. Parental involvement would continue to be stressed but would be within the context of tribal control and authority.

ISSUE: Need for Preparatory Academies

Because of inadequate preparation, many Indian students are not successful in college. Attrition rates between the first and second year of college are above 50%. In addition, Indian students have difficulty in entering graduate programs because of a lack of specialized academic skills. There is a critical need for both pre-college and graduate preparatory programs that would adequately prepare Indian students for success in areas of study that are critical to tribal needs. Indian professionals are scarce in the areas of medicine, law, natural resources, etc.

RECOMMENDATION

There must be established at least five regional American Indian Preparatory Academies of high quality to meet the needs of students preparing to enter college and special graduate programs. The Bureau of Indian Affairs should give this charge to the appropriate National Indian Education Councils

to develop a workable plan. The BIA should then request adequate appropriations from the Congress to support such Academ es.

ISSUE: Needs for Indian Special Education

Indian children that are handicapped, learning disabled and gifted and talented are the most educationally neglected of all children. These children are miseducated and undereducated because the BIA, the Office of Education, and state education agencies have failed to provide appropriate programs for the Indian child with special education needs. These children have not been identified adequately or adequately served. The responsible agencies have not requested adequate amounts to serve these children, nor have they planned for quality educational services.

RECOMMENDATION

The BIA and the Office of Education-DHEW must request sufficient monies in order to provide appropriate programs for the Indian handicapped and learning disabled. Monies must also be requested and provided for the development of appropriate instrumentation to identify Indian gifted and talented children and to provide culturally appropriate programs for these children.

ISSUE: Bilingual and Multilingual Education Needs of Indians

Indian children speak approximately 252 languages. These children have been denied the right to obtain an education equal to the education afforded English-speaking children.

The BIA's and OE's insistence in perpetuating the use of a monolingual (English) educational system cannot be sustained. Through the emphasis on existing monolingual curricula and the utilization of predominantely English teachers, school systems promote a single-minded proficiency in English that would replace any "foreign" language. Indians do not receive adequate monies from the Bilingual Education Acts of 1968 and 1974.

RECOMMENDATION

Title VII - The Bilingual Education Act should be amended to provide for the bilingual and bicultural education needs of American Indian children who speak 252 different languages. Tribes should be allowed to decide if curricula should be in both the tribal language and in the English language. Tribes, tribal education divisions and the family should also decide if teachers should acquire competencies in the tribal language before attempting to teach their children. Curriculum in Indian languages would be a priority of the Council on Indian Bilingual and Multilingual education.

NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Suite 207 1701 Pennsylvania Avenue, N.W. Washington, D.C. 20006
202 – 343-9484

April 20, 1977

The Honorable James Abourezk
Chairman, American Indian
Policy Review Commission
2nd & D Streets, S.W.
Room 3158
Washington, D.C. 20515

Dear Senator Abourezk:

Enclosed for review and consideration by the American Indian Policy Review Commission is a Statement to the Board of Directors of the National Tribal Chairmen's Association by a Special Committee of the Board delegated to review the work of the Commission. We thank the Commission for affording us the opportunity of commenting.

Sincerely yours,

William Youpee, Sr.
Executive Director

WY/kb

cc: NTCA Board of Directors

Enclosure

NTCA SPECIAL COMMITTEE FOR REVIEW
OF THE FINDINGS AND RECOMMENDATIONS
OF THE AMERICAN INDIAN POLICY
REVIEW COMMISSION:
STATEMENT ON THE COMMISSION'S
FINAL REPORT
APRIL 20, 1977

On March 23, 1977, the American Indian Policy Review Commission submitted its Tentative Final Report to the Indian tribes and people of the United States soliciting their comments on a massive volume of material which we must assume from its authors' intent will bear a profound impact on the Indian experience and the tribal future. We find the Report as a whole strongly states an Indian perspective of Indian history and aspirations. NTCA from the beginning has questioned many of the premises of the Commission including its necessity, its manner of securing representation of the Indian community in its processes, and an avowed orientation toward change through the legislative process. We should state at the outset of this paper that there is much in the Final Report with which we must agree, perhaps a majority of the Report is aligned with what we believe to be tribal consensus on familiar issues or at least logical extensions of accepted views.

We cannot and do not, however, offer a blanket endorsement of the Report. There is a certain exuberance in its narrative and recommendations from which we derive skepticism only because we detect at some points a discrepancy between what is possible and what is desirable. Some within NTCA will discover a lack of wisdom and toughmindedness in Commission statements with which they agree in principle.

This Committee finds it impossible and unwise to attempt a full scale critique of the Report. There are simply too many issues that will be resolved, even within the Indian community, only after long debate and actual experience. We do know that we cannot logically respond, as the Commission has requested, by checking the appropriate space on a preprinted form to indicate whether the report is "Excellent," "Good," "Poor," nor would this contribute significantly to the historical weight of the Report.

This Committee thus suggests that NTCA resolve firmly to reserve to itself the right to comment specifically and in full as each recommendation of the Commission is brought before Congress. Not only does this approach accord with the realities of the American political process but we believe it better allows for evolution and development of the issues and principles governing Indian affairs.

While we have adopted a policy herein of reserving comment on specific issues, for the most part, we recognize certain fundamental tenets of Indian law which underlie the whole of our relationship to the United States and which are basically unalterable and not evolving because they are based on historic fact. It is the intent of the Committee in this Statement to discuss some of these basic concepts not in the context of criticism of the Commission but as an expression of our views of the thrust of the law and of the most productive restructuring of the emphasis of Indian affairs.

I. The Purpose of an Indian Policy

At a time when there is growing confusion among many groups of American citizens and in state capitals concerning the meaning of tribal existence there is a need for restatement and publication of a purpose to the conduct of federal Indian affairs. Without some sense of purpose there is no vitality to the Commission's analysis of existing law or recommendations as to how the policy should best be carried out.

That purpose, we believe, lies in a basic human right of the individual to seek fulfillment of his maximum potential in the political, social, and cultural setting of his choice.[1/] The individual derives his identity from his culture and, for the Indian, this culture has been and continues to be defined by the realities of the tribe, tribal membership, and the tribal homeland and history. Thus, as a crucial aspect of their own human rights, Indian people who choose to live in the tribal context firmly believe in and seek to secure the existence of their tribes into perpetuity as self-governing political entities. This is a goal fully contemplated in past and present Indian policy. As recently as 1975, in the Indian Self-Determination Act, Congress declared "its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy . . . ." 25 U.S.C.A. 450a(b). The very straightforward congressional declaration apparently was based in large measure upon its finding of the fundamental Indian concept we are raising here -- that "the Indian people will never surrender their desire to

---

1/ Article 1 of the United Nations Covenant on Economic, Social and Cultural Rights provides that:

> All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

control their relationships both among themselves and with non-Indian governments, organizations, and persons." Id. § 450(a)(2). Indian tribes possess the moral right to endure and they shall do so as self-determining peoples.

Beyond the Indian's own purpose, however, we perceive in the maintenance of Indian tribes and culture a furtherance of the precepts of Americanism. This country has believed that it draws strength as a nation from the diversity of its included cultures, from its tolerance of divergent societies, and from its commitment to the protection of legitimate minority aspirations. Likewise, there is national strength in the fulfillment of national commitment to other nations of the world and to its own citizens. On the contrary, we believe the United States in modern times stands for the principle that purposeful destruction of societies and cultures is immoral and violative of human rights. 2/

The Indian right to survive as Indian and the United States' commitment to certain moral principles governing the fabric and direction of national life must establish the underlying purpose of any federal Indian policy.

II. The Legal Basis of Tribal Existence and Authority

While all people possess the inherent moral right to maintain and develop their native cultures and social, political organization, no people in American history has ever presented that issue in

---

2/ See e.g., The international Genocide Convention of December 9, 1948, would outlaw the purposeful destruction of a national, racial, or religious group as such. U.N. Treaties No. 1021, p. 277, 45 Am.J. Int'l Law 1951 Supp. 7.

the federal context and been accorded that right as a matter of constitutional, international, and statutory law. Indian tribes are unique in the American legal system. It must not be forgotten that before the age of European discovery Indian Tribes enjoyed complete mastery of the continent, governing their land and people as fully sovereign, self-determining polities. They were independent nations possessed of unlimited powers of self-government controllin both their external and internal relations. Many tribes, such as those of the Iroquois Confederation, achieved levels of sophistication in political organization still regarded as models of effective government.

In the post Revolutionary period, the reality of the day dictated that the uniqueness of Indian tribes be recognized in the formation of the new federal system. Thus, the Constitution expressly recognizes Indian tribes and identifies them as political entities separate from the states and foreign nations -- to be dealt with as tribes. Art. I, § 8, cl. 3. The Constitution itself suggests that Indian tribes were self-governing in fact.

The United States treated with Indian tribes on the same basis as it did with the powers of Europe. Holden v. Joy, 84 U.S. (17 Wall.) 211, 242-43 (1872). Treaty making is in fact an exercise of mutual undertakings between co-equal sovereigns and the formulation of treaties with Indian tribes a recognition by the United States of their sovereign nature and capacity. The treaties entered into by the United States constitute permanent agreements establishing

permanent relationships. In them the United States agreed to the imposition of limitations on its own sovereignty and both parties have recognized the mutuality of their agreements through the years. It should be noted that in the colonial and post Revolutionary War era the United States often sought and received the assistance of the tribes and, in concluding treaties of peace, that the United States stood as much in the need of peace as did the tribes.

Indian tribes and people paid dearly in lives, land and property as their part of the agreements. The United States' foremost payment was the promise that the Indian would have his tribe and his remaining land forever. The uncompromised duration of the agreement formed the basis of tribal consent. Indian tribes, the courts, and the United States cannot regard these treaties as mere relics for the archivist. The assertion of treaty rights calls for the fulfillment of living agreements reached long ago between nations. This view is part of American law.

The relationship of Indian tribes to the United States was first considered comprehensively by the Supreme Court in 1832, and the analysis of Chief Justice John Marshall in Worcester v. Georgia, 31 U.S. (6 Pet.) 515 (1832) has never been repudiated. Worcester remains today as the foundation of the existence of Indian tribes and the source of their vitality. In Worcester, the Court recognized that prior to the European discovery of America Indians constituted a "distinct people, divided into separate nations, independent of each other and of the

rest of the world, having institutions of their own, and governing themselves by their own laws." Id. at 542. Discovery by various European powers did not annul the pre-existing rights of these nations, including their property and political rights. Id. at 543. As a matter of international agreement between European sovereigns, the recognized principles of war, conquest, and discovery conferred certain rights on the American continent, but only between those nations which agreed to them. As to land, the rights of discovery gave only an exclusive right to purchase from the possessor. Id. at 543-44. Indian nations retained their sovereign discretion to cede or not to cede their rights in land. Id. at 544.

Great Britain, from whom the obligations and understandings of the United States were derived, conferred no power of conquest upon their colonies except the power to make defensive war for just cause. The British colonies thus had no power to destroy independent nations, and, during their tenure, they did not in fact attempt to interfere with Indian self-government. Id. at 547. Tribes willingly accepted from various European nations necessary supplies and protection against invasion so long as their actual independence was untouched and their right to self-government was acknowledged. Id. at 547.

The United States, following the Revolution and under the Constitution, regarded the Indian nations, as had the British, as:

> distinct, independent political communities retaining their original natural rights, as the undisputed possessors of the soil from time immemorial, with the single exception of that imposed by irresistable power . . . The Constitution, by declaring treaties al-

> ready made, as well as those to be made, to be the supreme law of the land, has adopted and sanctioned the previous treaties with the Indian nations, and consequently admits their rank among those powers who are capable of making treaties . . . .
>
> * * *
>
> The very fact of repeated treaties with them recognizes [their title to self-government]; and the settled doctrine of the law of nations is that a power does not surrender its independence -- its right to self-government, by associating with a stronger and taking its protection.

Id. at 559, 561. In Worcester, the Court thus held the Cherokees to be a nation, a distinct community occupying its own territory in which the laws of Georgia had no effect. The inherent right of self-government of America's Indian tribes identified and preserved in Worcester has never been surrendered by the tribes or extinguished by the United States.

A. The Power of Consent

As political entities retaining inherent sovereign powers Indian tribes possess the basic power of consent, i.e., the power to give or to withhold their consent to actions affecting them. The consent power, we believe, is reserved to the tribes in much the same way as the states reserve aspects of their sovereignty under the Constitution. U.S. Const., amend. x. The tribal power of consent is recognized in specific provisions such as the consent requirement for state assumption of jurisdiction in 25 U.S.C. §§ 1321(a), 1322(a). There is clear reservation of tribal power of

95 3 0 - 78 - 38

consent and self-government in the tribal government reorganizations under the Indian Reorganization Act, 25 U.S.C. §§ 476 et seq. (1970). "The laws of an Indian tribe owe their force to the will of the members of the tribe," Cohen, Handbook of Federal Indian Law, 122 (U.N. Mex. ed.), and the constitutions of many tribes expressly provide that powers not delegated to the tribe are reserved to the people. The I.R.A. itself constitutes congressional recognition of the power of consent retained by Indian people in matters of their self-governing authority. See 25 U.S.C. § 476.

The power of consent forms the historical basis for the special legal relationship between Indian tribes and the United States. It was the essence of the treaty-making process and of the many agreements reduced to statutory form after 1871. Indian tribes, possessed of vast land, mineral, and water resources in preceding centuries consented to the cession of their land and certain authority but this was done in a context of contract, not of gift, for mutual considerations including the obligations of the United States. Tribes did not consent to surrender their rights of self-government and the United States explicitly and implicitly obligated itself to secure this right to the tribes with whom it dealt. Thus, it is the position of this Committee that the special relationship between Indian tribes and the federal government and the legal obligations of the latter with regard to that relationship are founded in specific agreements and statutory commitments.

III. Tribal Government

The relationship between the United States and the Indian tribes, founded in treaty and agreement, is essentially political in origin and exists between governmental entities. The continued existence of the relationship and its manifest mutual obligations thus implies the necessity of tribal governments. The Supreme Court has recently cited the principle that tribal organization is essential to the federal/Indian relationship:

> If the tribal organization of the Shawnee is preserved intact, and recognized by the political department of the government as existing, then they are a 'people distinct from others,' capable of making treaties, separated from the jurisdiction of Kansas, and to be governed exclusively by the Government of the Union. If under the control of Congress, from necessity there can be no divided authority.

McClanahan v. State Tax Commission of Arizona, 411 U.S. 164, 169 (1973), quoting The Kansas Indians, 5 Wall. 737 (1867). Likewise, the Court long ago held that Indian tribes

> . . . were and always have been regarded as having a semi-independent position when they preserved their tribal relations; . . .

McClanahan v. State Tax Commission of Arizona, supra, quoting United States v. Kagama, 118 U.S. at 381-82 (1886) (emphasis added).

It is the tribe to which the U.S. obligation is owed; there is no general special legal relationship with individual Indians except insofar as the individual has "maintained his tribal relations." Moreover, the determination of who is to be considered a tribal member

has been treated almost exclusively as a political function of the tribe. Thus the individual Indian's special relationship to the United States is by reason of his own legal/political affiliation with a tribe which possesses a recognized political relationship with the federal government. There is no unique obligation to Indians on the basis of racial classification. See Morton v. Mancari, 417 U.S. 535, 554, n. 24, and legal preferences accorded members of federally recognized tribes are not racial discrimination but are political in nature. Id.

The exchanges of consent and commitments between tribal and federal governments and the consequent political/legal relationship which survives to the present day and continues to develop and grow is nevertheless grounded in specific historical circumstances and agreements. There were specific entrustments of land and resources, specific promises and reservations made. These are to be construed broadly, as the Indians would have understood them when they bargained with the United States; but the relationship does not arise from an abstract duty to protect the Indian people. It is, however, the intent of Indian people to hold the United States to its contracts.

We conclude from the foregoing that the concept of federal recognition is crucial to an understanding of the federal/Indian relationship and to its development. It is a realistic adjunct of sovereignty for the sovereign to recognize those entities with which it has dealt politically in the past and with which it will deal in the future. It is our opinion that the federal recognition doctrine is still vital to Indian tribes because it secures the essential

political nature of our relationship to the federal government which was first established in the Constitution. We would object to any recommendation of the Commission that subverts the sound political/legal basis of the relationship between Indian tribes and the federal government and thereby diminishes tribal government.

IV. The Trust Relationship

We have purposely used the concept of trust sparingly in this Statement because it is of such importance to Indian people that it should not be used loosely or arbitrarily. Much of the relationship between Indian tribes and the United States is founded in the legal concept of trust. Indian tribal and individual assets have been placed and accepted in trust by the United States for their beneficial owners. The trust status of Indian law and property impose upon the United States exacting duties of fiduciary care. Those duties are broad and we would not attempt here to define them precisely. Nevertheless, we do not believe the trust authorizes general domination and control by the federal government over the full range of tribal affairs or the daily lives of Indian people. On these principles, we believe we are substantially in accord with the Commission.

V. Specific Issues

A. Treaties

The Commission recommends that Congress enact legislation directing federal agencies to administer the trust responsibility in accord with, inter alia, the following principle;

> The United States shall not abrogate or in any way infringe any treaty rights, or non-treaty rights which are protected by the trust responsibility, without first seeking to obtain the consent of the affected Indian or Indians. Such rights shall not be abrogated or infringed without such consent except under extraordinary circumstances where a compelling national interest requires otherwise. With or without Indian consent, such rights shall not be abrogated or infringed in any way except pursuant to a Congressional act which identifies the specific affected Indian rights and which states that it is the intent of Congress to abrogate or infringe such rights.

We believe this to be one of the most fundamental principles upon which Indian affairs should be structured in the future and urge that it be incorporated into legislation and accorded high priority in this Congress.

B. Tribal Exercise of Jurisdiction

This committee is fully aware of the passions stirred by the issue of tribal jurisdiction. We believe the issue should be controlled by the principles of inherent sovereignty, flexibility and cooperation. The decision of the Ninth Circuit in Oliphant v. Schlie, 544 F.2d 1007 (1976), sets forth a sound analysis of the nature of tribal authority.

In general, problems of conflicting and often chaotic patterns of jurisdiction involving tribal, federal, state, and local governments must be resolved in accord with the status and needs of individual Indian tribes. The law must recognize and restore the inherent jurisdictional authority of all tribes but must, at the same time, recognize the varying resources, land base characteristics, population sizes, choices concerning the scope of autonomy to be exercised, and

the cultures of the individual tribes. In particular we support the well-planned, well-funded retrocession to the tribes and federal government of all P.L. 280 jurisdiction on the basis of local tribal option.

Members of this Committee are firm believers in the basic capacity of tribal governments to administer due process of law to members and non-members alike. There is yet much work to be done in this regard, however, and federal assistance is required. Perhaps the most pressing need is for tribal development or redesign of their criminal and civil codes. There is a continuing need to upgrade the training of tribal judges. Tribal appellate courts are often inadequate or non-existent. There is a pressing need to extend full faith and credit to the orders and judgments of tribal courts.

Furthermore, looking to the future, there is need for tribes to make clear to all persons, whether living on the reservation or not, the scope of jurisdiction they intend to exercise. The concept in the law of the United States, spelled out in statute or ordinance, of implied consent to jurisdiction by reason of entry into a designated geographic area does not deny due process of law to persons so consenting.

We suggest, however, with regard to this last point, that serious consideration be given to the desirability and feasibility of placing U.S. magistrates on Indian reservations to exercise jurisdiction over tribal non-members.

C. Conflicts of Interest

Resolution of the conflict of interest problem pervading the entire federal administration of Indian affairs is of utmost importance. Indian tribes must have access to competent, independent legal counsel if they are to protect their assets and rights against incursions by federal, state, and private interests. We will reserve comment on the many specific proposals directed to this end by the Commission. We would emphasize, however, that the federal government has assumed its obligations as a unified entity and no federal agency is free to disregard trust or other responsibilities.

D. An Independent Agency

One of the primary tenets of the Commission's Report is that federal policy should be directed toward creation of an independent agency or department to administer Indian affairs. There is much difference of opinion in Indian country concerning this proposal, but the Committee believes NTCA should support serious consideration of the proposal as a long-term goal. We still have serious misgivings concerning the justification for such an undertaking offered by the Commission. The proposal suffers on many points from lack of clarity. Further, it does not appear that a new agency necessarily would solve basic conflicts of interest.

The Committee believes an independent department presents the potential for more effective delivery of funds to Indian people. Regionalization and fragmentation of services could be reduced, the cost of bureaucracy cut. The goal of any reorganization should be to deliver the federal dollar nearest the problem with the greatest possible impact.

Reorganization, whether in the BIA context or in a new context, should also reconceptualize the present Area Office. Such offices should be transformed into Technical Assistance Centers with the authority and capacity to deliver the highest quality professional services possible -- through contracts with the private sector if need be. The channels of political authority should be free to flow directly between the agencies and the Central Office. The Agency Superintendent should be given more flexibility and more authority to deliver what individual tribes actually want and need.

E. Congressional Committee Structure

The Committee views with alarm the recent trend in Congress to merge legislative jurisdiction over Indian affairs into a public lands committee in the House and into two committees in the Senate. The eventual resolution in the Senate creating a temporary select committee was welcome, but Indian affairs demands greater expertise,

continuity, and security than Congress has now provided. We support the Commission recommendations calling for creation of permanent standing or select committees in both houses of Congress or a Joint Select Committee.

F. Federal Domestic Assistance Programs

Indian tribes must be integrated into federal domestic assistance delivery systems. The unintended subjection of tribes to state jurisdiction interferes directly with the exercise of tribal sovereignty and is inconsistent with federal policy recognizing the self-governing status of Indian tribes. Moreover, there are far too many instances of state administration of programs for reservation Indians resulting in inefficient, reduced, and sometimes discriminatory delivery of services. Those tribes which possess the capability should be granted the option of electing to receive direct federal funding and to assume administrative control of programs.

CONCLUSION

We have offered the foregoing views out of a deep sense of our commitment to the soundness of the principles upon which Indian law and the trust relationship are based. There is also a great need at this juncture in Indian history to be about our business with diligence, dedication and compassion for our people.

- WENDELL CHINO
- BRUCE MILLER TOWNSEND

NATIVE AMERICAN CENTER

1214 N. Hudson
Oklahoma City, Oklahoma 73103
Area Code 405 232-2512

EXECUTIVE DIRECTOR
MILLIE GIAGO
BOARD OF DIRECTORS
CLARENCE WALTER
Chairman of the Board
ABEL NOAH
Vice-Chairman
BETTY COKER
Secretary
SUE WILSON
Treasurer
BOARD MEMBERS
RUSSELL COKER
JOE DURANT
REV. ROBERT PINEZADDLEBY
EARL PLUMLEY
SYLVIA WALCZAK
REV. DAVE LONG, SR.
SUE WILSON
LAWANA BROWN
CORINNE HALFMOON
JORENE COMBS
HICKORY STAR, JR.

May 2, 1977

American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2nd and D Streets, S.W.
Washington, D.C. 20515

Dear Sir:

It is impossible to make comment on these final report. We waited for the material to be sent under separate cover as instructed.

We have not received them as of today's date May 2, 1977.

Sincerely,

Millie A. Giago

Millie A. Giago
Executive Director

MAG/gb

NATIVE AMERICAN
COALITION OF TULSA
P.O. Box 2646 Tulsa 74102
819 S. Denver Tulsa, Oklahoma
Phone (918) 583-3643

April 20, 1977 RECD APR 26 1977

TO: American Indian Policy Review Commission

FROM: Pamela E. Iron, Director
Indian Health Care Resource Center

SUBJECT: Observations and Recommendations on "A Guide to the Final Report of the American Indian Policy Review Commission"

I. Chapter 5: Legal Status (page 5)
(Historical Overview and Jurisdiction)

Before tribal governments are given the same powers as "local governments" by the Executive Branch of government, the tribal government should:

(a) be found to have a fair and democratic constitution which was passed by a simple majority (50% plus 1) of that tribe;

(b) a tribe must accept any person who is on their tribal role as a "voting member" of that tribe, and consider membership to individuals who are at least one-quarter (¼) blood quantum of that tribe regardless of location, head-rite status, or any limiting factor as a "voting member" of that tribe.

It should be noted that many American Indians are not allowed to vote because of location or some superficial restriction and therefore are deneid the right to vote, especially those Indian people living off the reservation. Therefore, the tribal government cannot be representative of a majority of its membership if certain Indian people who are bonafide descendants of that tribe are denied the right to vote;

(c) tribal officials must be elected by those members included in section (b) by a simple majority with controls on ballot counting being equal to any other national election, overseen by the Department of Interior;

(d) other areas which would directly apply to the above recommendations:

1. Chapter 6: Federal Administration p 17. Subject: Tribal governments as equal to state governments in the federal delivery system of federal domestic assistance programs.

2. Chapter 7: Economic Development- Taxation- the authority of a tribe to enact a tax on their tribe. (p. 32).

II. Chapter 6: Federal Administration (p. 19)

The current recommendation of "The Indian Career Service" appointment system has some merits, however once the employee is appointed, he should not give up any Civil Service Commission laws protecting him from political "manuevaring" to remove him without due process.

III. Chapter 8: Social Services - Health (p.35)

We stand in complete agreement with the concept and reality of Indian centers in urban areas providing health care and social services (especially via P.L. 94-437, Title V).

IV. Chapter 9: Off-Reservation Indians

We fully support all issues dealing with off-reservation Indians. However, the urban Indian center who have a non-profit incorporated status and an Indian Board of Directors should be recognized by the federal government to contract directly with them for health care and social services. This view is supported by P.L. 94-437, Title V, in that congress specifically recognized unmet health care needs in urban areas containing a large population of Indian people.

BEFORE granting tribes control over urban programs, "The Select Committee on Indian Affairs should conduct a survey of the forty major tribes of Oklahoma as to how many programs effecting the health, education, and welfare of Indians living in Tulsa and Oklahoma City they have initiated and supported before P.L. 94-437 was passed. The response should be very revealing.

cc: Rep. James R. Jones
Rep. Theodore M. Risenhoover
Sen. Dewey Bartlett
Sen. Abourezk

A GUIDE TO THE FINAL REPORT OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

Prepared by:

Native American Rights Fund
Boulder, Colorado

American Indian Law Center
University of New Mexico
Albuquerque, New Mexico

March 31, 1977

MEMORANDUM

To: All Tribes and Indian Organizations

From: Native American Rights Fund and American Indian Law Center

Re: Final Report of the American Indian Policy Review Commission

The final report of the American Indian Policy Review Commission was issued to tribes and Indian organizations on March 23, 1977 for their review and comments. Given the relatively short time for responses to the Commission report (all responses are to be submitted to the Commission no later than April 23, 1977), the Native American Rights Fund and the American Indian Law Center have prepared a guide to the Commission report to assist tribes and Indian organizations in the preparation of their responses to the report of the American Indian Policy Review Commission.

The attached guide is divided into two sections. The first section contains a summary of recommendations contained in each chapter of the majority report, as well as the recommendations contained in the minority report - Separate Dissenting Views of Congressman Lloyd Meeds. Each recommendation is presented with a designation as to the recommended action to be taken by each party to the Federal-Indian relationship. The second section of the guide contains evaluations of each chapter of the Commission report prepared by the staffs of the Native American Rights Fund and the Indian Law Center. These evaluations do not represent either an endorsement or rejection of Commission recommendations, but rather are intended to highlight issues which each tribe and Indian organization must evaluate from their own perspective given the variety of circumstances unique to each group. In some instances, the comments addressing certain chapters of the Commission report focus upon the omission of issues or recommendations in a given subject area. In these areas, tribes will need to evaluate the effect of an issue's omission, and to generate their positions relative to that issue, so that Congress may be fully informed of the views of each tribe or Indian organization prior to acting upon Commission recommendations.

The Policy Review Commission has held six hearings over the past five months to review the findings and recommendations contained in the final report of the Commission. As a result, the specific wording and substance of each recommendation represents a consensus vote of Indian and non-Indian Commissioners, and may vary from the recommendations contained in Task Force reports. Thus, tribes and Indian organizations must closely scrutinize all recommendations of the final report to determine the adequacy of each recommendation to accomplish its stated goal, as well as the extent to which the recommendations represent the Indian position, and the degree of acceptance the recommendations may find among the group evaluating the report.

The thirty days scheduled for the receipt of responses to the final report mark the last opportunity for tribes and Indian organizations to comment upon the findings and recommendations of the American Indian Policy Review Commission. Tribal responses are critical to the quality and credibility of the Commission report and the future of Federal-Indian policy.

TABLE OF CONTENTS

	Page:
Memorandum to All Tribes	i
Summary of Recommendations	1
Chapter 4: Federal Indian Trust Relations	60
Chapter 5: Tribal Government	62
Chapter 6: Federal Administration	68
Chapter 7: Economic Development	72
Chapter 8: Social Services	78
Chapter 9: Off-Reservation Indians	82
Chapter 10: Terminated Tribes	85
Chapter 11: Non-Recognized Indians	87
Chapter 12: Special Circumstances	88
Chapter 13: General	93
Minority Report	94

93-440 O - 78 - 39

Chapter 4 Federal-Indian Trust Relations

Recommendations:

"In carrying out its trust obligations to American Indians (including Alaska Natives) it shall be the policy of the United States to recognize and act consistent with the following principles of law:

	Action to be taken by: Executive	Congress	Interior	Tribe
1. The trust responsibility to American Indians is an established legal obligation which requires the United States to protect and enhance Indian trust resources and tribal self-government. This includes the duty to provide services for trust protection and enhancement. In carrying out the trust responsibility, the United States shall be held to the highest standards of care and good faith consistent with the principles of common law trust. Legal and equitable remedies shall be available in Federal courts for breach of such standards.	X	X	X	
2. Although the trust responsibility is a legally binding duty required of all United States agencies and instrumentalities and although Congress has the ultimate responsibility for insuring that the duty is met, there shall be in the Executive Branch one independent prime agent which is charged with the principal responsibility for faithfully administering the trust.	X			
3. The trust responsibility extends through the tribe to the Indian member whether on or off the reservation. His or her rights pursuant to this United States obligation are not affected by services which he/she may receive on the same basis as other United States citizens or which the tribe may receive on the same basis as any other governmental unit.	X	X		
4. The United States hold legal title to Indian trust property but full equitable title rests with the Indian owners.	X	X		

Chapter 4: Federal-Indian Trust Relations

Recommendations:

	Action to be taken by			
	Executive	Congress	Interior	Tribe
*Indian Trust Rights Impact Statement. Before any agency takes action which may abrogate or in any way infringe any Indian treaty rights, or non-treaty rights which are protected by the trust responsibility, it shall prepare and submit to the appropriate committees in both houses of Congress an Indian Trust Rights Impact Statement. Such Impact Statement shall include but not be limited to the following information:				
1. Nature of the proposed action.				
2. Nature of the Indian rights which may be abrogated or in any way infringed by the proposed action.				
3. Whether consent of the affected Indians has been sought and obtained. If such consent has not been obtained, then an explanation of the extraordinary circumstances where a compelling national interest requires the taking of such action without Indian consent.				
4. If the proposed action involves taking or otherwise infringing Indian trust lands, whether or not lieu lands have been offered to the affected Indian or Indians.		X		
* The United States shall not abrogate or in any way infringe any treaty rights, or non-treaty rights which are protected by the trust responsibility, without first seeking to obtain the consent of the affected Indian or Indians. Such rights shall not be abrogated or infringed without such consent except under extraordinary circumstances where a compelling national interest requires otherwise. With or without Indian consent, such rights shall not be abrogated or infringed in any way except pursuant to a Congressional act which identifies the specific affected Indian rights and which states that it is the intent of Congress to abrogate or infringe such rights.			X	

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT
Chapter 4: Federal-Indian Trust Relations

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
*Legal Representation for Indians. In order to diminish the conflict of interest prevalent when the Department of Justice and the Department of the Interior provide legal services to Indians, to provide for more efficient rendering of legal services to Indians, and to otherwise improve the representation which Indians receive for protection and enforcement of their trust rights, Congress should enact legislation which will provide for the following:				
1. There shall be established within a newly-created Department of Indian Affairs (See Chapter 6) an Office of Trust Rights Protection. Its duties shall include, but not be limited to, inventorying and assisting in the management of Indian trust property, advising Indians and Indian tribes in legal matters and representing them in all litigation and administrative proceedings involving Indian trust rights. In appropriate field offices of the Department of Indian Affairs there shall be a legal and professional staff under the supervision of the Office of Trust Rights Protection.		X		
2. The Office of Trust Rights Protection shall be authorized to render all appropriate legal services which are now rendered by the Department of Justice and the Department of the Interior, provided that the client-Indian agrees to accept such representation and services.		X		
3. The Office of Trust Rights Protection shall have the primary responsibility of the Federal government for protecting, enforcing, and enhancing Indian trust rights but this shall not relieve any Federal agency from the duty to recognize and act consistent with the Federal trust responsibility for Indians.		X		
4. The Office of Trust Rights Protection shall act in the name of the United States as trustee for the Indians in all legal matters and proceedings, except those which it refers to the Department of Justice for litigation. It shall have the discretion to so refer those matters which it does not have the staff, resources, or expertise to handle. The Office also shall have the discretion and authority to engage private counsel to represent Indians, tribes or groups in trust matters. In such cases, the United				

Recommendations:	Action to be taken by			
	Executive	Congress	Interior	Tribe
Government may pay all fees and costs and the wishes of the client-Indians shall be complied with as much as possible in selection of counsel. Where there is a conflict of interest between an individual Indian and a tribe involving trust issues, the Office shall represent the tribe and it shall have the discretion to engage private counsel to represent the individual at government expense.		X		
5. The United States waives sovereign immunity for all actions involving Indian trust matters brought by the Office of Trust Rights Protection or private counsel engaged by it to represent Indians.		X		
6. The Office is authorized to obtain whatever information, services and other assistance deemed necessary from other Federal agencies and such agencies shall be obligated to comply with such requests.		X		
*Authorization for Award of Attorney Fees and Other Litigation Costs. Federal courts are authorized to award attorney's fees and expenses, and all reasonable costs incident to litigation, including but not limited to expert witness fees, in cases in which an Indian or Indian tribe or group engages private attorneys and is successful in protecting or enforcing treaty, trust or other rights protected by Federal statute. Federal courts shall have the discretion to order that all such fees and costs be paid by the losing party or by the United States Government.		X		

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT

Chapter 5: Tribal Government - A. Legal Status Generally

Recommendations:	Action to be taken by			
	Executive	Congress	Interior	Tribe
A. 1. Historical Overview and Jurisdiction Generally				
"That the long term objective of Federal-Indian policy should be the development of tribal governments into fully operational governments exercising the same powers and shouldering the same responsibilities as other local governments. This objective should be pursued in a flexible manner which will respect and accommodate the unique cultural and social attributes of the individual Indian tribes.	X	X		
"It is the recommendation of this Commission that the Congress undertake no legislative action in relation to tribal jurisdiction over non-Indians at this time.	No Action			
A. 3. Political Relationship and the Indian Reorganization Act of 1934				
"That Section 18 of the Indian Reorganization Act (25 U.S.C. 478) which provides that no part of that Act shall apply to any reservation wherein a majority of the adult Indians vote against its application should be repealed. In its place Congress should enact a savings clause to provide that the rights of any tribe which has organized under the terms of Section 16 of the Act or formed a corporation under Section 17 of the Act will not be adversely affected. To accomplish this result the Commission recommends the following specific legislative actions:				
1. Repeal Section 18 of the IRA which reads as follows: This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, shall vote against its application. It shall be the duty of the Secretary of the Interior within one year after June 18, 1934, to call such an election, which election shall be held by secret ballot upon thirty days' notice.		X		
2. Insert in place of this Section the following language: Any Indian tribe which has chosen to organize under Sections 16 and 17 of the Indian Reorganization Act shall not be affected.		X		

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT

Chapter 5: Tribal Government - A. Legal Status Generally

Recommendations:	Action to be taken by			
	Executive	Congress	Interior	Tribe
"That Section 16 of the Indian Reorganization Act (25 U.S.C. 476) which authorizes tribes to organize under the provisions of that Act should be amended to: (1) to specifically reflect the fact that tribes have an inherent right to form their own political organizations in the form which they desire, and (2) to provide that notwithstanding any provisions in existing tribal constitutions which vest the Secretary with authority to review and disapprove ordinances enacted by the tribal government, the authority of the Secretary over the actions of the tribal government shall only extend to those matters directly related to the trust responsibility over the use and disposition of trust assets. To accomplish this result the Commission recommends amendment of Section 16 of the IRA along the following lines:				
The right to choose their natural form of government is the inherent right of any Indian tribe. Amendments to tribal constitutions and by-laws adopted pursuant to the Indian Reorganization Act shall be ratified and approved by the Secretary to protect the trust assets and resources of the tribes.				
In addition to all powers vested in any Indian tribe or tribal council by existing law, said Indian tribe shall also be recognized to have the following rights and powers: To employ legal counsel, to prevent the sale, disposition, lease, or encumbrance of tribal lands, interest in lands, or other tribal assets without the consent of the Secretary; and negotiate with the Federal, state and local governments. The Secretary of the Interior shall advise all Indian tribes and/or their tribal councils of all appropriation estimates of Federal projects for the benefit of the tribe prior to the submission of such estimates to the Office of Management and Budget and the Congress.				
Notwithstanding the provisions of any existing tribal constitution or similar document which vest authority in the Secretary to review and approve or disapprove proposed actions of said Indian tribes, or Indian tribal governments, the Secretary's authority over Indian tribes can only extend or be directly related to the trust responsibility over the use and disposition of trust assets.		X		

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT

Chapter 5: Tribal Government - A. Legal Status Generally

Recommendations:	Action to be taken by:			
	Executive	Congress	Interior	Tribe
"That Section 2 of Title 25, U.S. Code, should be amended to provide that the authority of the Secretary of the Interior over tribes shall only extend to actions relating to protection of tribal trust assets. Within these limits, whenever the Secretary finds it necessary to disapprove a proposed tribal initiative, he must file a written statement with the tribe notifying them of the reason for his disapproval of their proposed action and afford them an opportunity for a hearing.		X		
"That Section 81 of Title 25, U.S. Code, should be amended to accomplish a result similar to that proposed above, i.e., that whenever the Secretary shall disapprove any proposed contract dealing with trust assets, he shall provide the affected tribe or person with a written statement of his reasons for disapproval and provide them with an opportunity for a hearing. To accomplish these results the Commission recommends amendatory language along the following lines:				
That 25 U.S.C. 2 be amended to include the following language: "The authority of the Secretary of the Interior over Indian tribes shall only extend to those actions deemed necessary to protect tribal trust assets and resources. In any action which the Secretary finds it necessary to disapprove a proposed tribal government initiative, the Secretary shall take such action within 60 days of having been officially notified of the proposed tribal action by the Indian tribal government and any disapproval of the proposed tribal action shall be accompanied by an opportunity for a hearing on the part of the tribe, and the Secretary's decision shall be based on written findings of fact which shall specify the reasons for his disapproval.		X		
That 25 U.S.C. 81 be amended in the following manner: The third paragraph beginning "second..." shall read: It shall bear the approval of the Secretary of the Interior and Commissioner of Indian Affairs endorsed upon it. The Secretary of the Interior and the Commissioner of Indian Affairs shall disapprove any such proposed contract only after finding that the proposed contract shall endanger the trust assets or resources of the tribe or individual Indian. Such findings shall be submitted to the proposed tribe and/or Indian in written form specifying the exact reason for disapproval.		X		

Chapter 5: Tribal Government - A. Legal Status Generally

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
"Additional legislation should be enacted to authorize tribes to override Secretarial disapproval of their proposed use of trust assets. Such an override must be coupled with a waiver of liability on the part of the United States to the limited extent that the override may result in loss. The Commission recommends enactment of legislation along the following lines to complement the preceding recommendation.. Whenever the Secretary disapproves a tribal government initiative, a contract or other tribal action involving the use or disposition of a trust asset, the tribe shall be entitled to override such Secretarial disapproval upon the following terms:				
The Secretary shall supply the tribe with a detailed statement of the reasons for his disapproval of their proposed use or disposition of the trust asset, specifically setting forth the loss he believes may result from such tribal proposal.				
After due consultation between the representatives of the tribe and the Secretary or his representative, the tribal council may, by formal resolution, elect to override the disapproval of the Secretary. Such resolution must contain a specific waiver of liability on the part of the United States for losses which may result as a direct result of the tribal override.				
In the consultation process the Secretary shall be held to the highest standards of care and good faith consistent with the principles of common law trust in advising the tribes of the potential consequences of the proposed tribal decision.				
A tribal override of a Secretarial disapproval shall not diminish the trust character of the asset in question. The trust responsibility of the United States to aid the tribe in the implementation of their decision and to protect the future well-being of the asset shall continue undiminished.				
In any case in which the Secretary has reasonable cause to believe that the decision of the tribal government may not reflect the will of the majority of the members of a tribe he shall (may) require a referendum of the tribal members, the expense of which shall be borne by the United States and not the tribe.				
In the event the Secretary determines that a tribal resolution should be put to a referendum, he must notify the tribal council within 30 days of the passage of their resolution, and he must call for such referendum vote not more than 45 days after tendering such notification.		X		

Recommendations:

	Action to be taken by			
	Executive	Congress	Interior	Tribe
A. 4. 1968 Civil Rights Act/Faith and Credit Afforded Tribal Laws				
"The Commission recommends the following amendments to Title II of the 1968 Civil Rights Act:				
1. Congress should enact provisions to make it crystal clear that this Act was not intended as a general waiver of sovereign immunity of the tribes. The holding in Loncassion v. Leekity, 334 F. Supp. 370 (D., N.M., 1971) authorizing a money judgment against tribes should be specifically rejected by Congress. While the courts must have authority to enforce substantive aspects of the Act (as limited by the recommendation above), Indian tribes, like any other government, must have sovereign immunity and some protection for their officers if they are to be able to govern fairly. Equitable actions such as mandamus against tribal officials may be permissible, but they should be immune from money judgments when they work within their scope of duty.		X		
2. The jurisdictional provisions of this Act should be reexamined. Habeas corpus review is the only jurisdictional provision now included in this Act, yet the courts have assumed jurisdiction over a broad range of actions which do not involve detention. As the situation stands, the jurisdictional reach of Federal courts and the remedial orders which they feel free to enter is virtually unlimited. This is in complete contrast to all other Federal civil rights legislation.		X		
3. The part of this Act providing for a right to trial by jury be amended to specify that the right guaranteed by this subsection shall only be applicable to offenses which if charged in a Federal court would be subject to a right to trial by jury. As Section 202(10) presently reads, the right to trial by jury would theoretically apply to almost every offense a person might be charged with, not matter how slight the penalty.		X		
4. The provisions of the Act limiting the penal authority of a tribe to fines of $500 or six months imprisonment, or both, should be amended to increase these figures to fines of $1,000 or 1 year imprisonment, or both.		X		

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
5. That Section 1738 of Title 28, U.S. Code, should be amended to include Indian tribes among those governments to whom full faith and credit shall be given. The prupose of this amendment would be to place Indian tribes on the same footing as states and territories with respect to the application of full faith and credit principles. In the alternative, Congress should consider a codification of the principles of comity which would allow for greater flexibility of both the tribes and the states in determining the faith and credit they will extend to each other's law and judgments.		X		
6. Congress should amend Title II of the 1968 Civil Rights Act to provide a mechanism for limited appeals to United States Circuit Courts after exhaustion of all available tribal remedies. The needs for such a provision is directly related to (1) the Commission recommendation for according full faith and credit to tribal laws and court judgments; and (2) to the expanding role of tribes in civil and criminal matters involving non-Indians. This legislation should adhere to the following principles:		X		
a. Existing Federal law permits Federal courts to review the judgments of state courts for matters involving questions arising under the U.S. Constitution or Federal statutes. The limited right of appeal proposed in this Part would authorize Federal court review of tribal court decisions in both civil and criminal matters in extraordinary circumstances involving a prima facie showing of a denial of due process (fundamental fairness) or denial of equal protection, and/or when the amount in controversy exceeds a specified amount. ($50,000)				
b. Section 203 of Title II of the 1968 Civil Rights Act (25 U.S.C. 1303) which extends the privilege of the writ of habeas corpus to test the legality of detentions by order of Indian tribes should be amended to provide a limited right of appeal from final orders or judgments of the highest court system of the respective tribe in both civil and criminal matters.				
c. Appeal to the Federal court should not be allowed until the petitioner has exhausted all available tribal remedies. This "exhaustion" requirement should include all tribal appellate remedies including appeals to regional inter-tribal courts of appeal should the tribes elect to enter into such inter-tribal compacts. The requirement for exhaustion should be rigidly enforced by the courts.				

Recommendations:	Action to be taken by			
	Executive	Congress	Interior	Tribe
d. The review should not turn on rigid procedural requirements but rather should be premised on fundamental fairness based on the entire record. This amendment should follow the rule laid down in cases that this Act did not "blanket in" the entire body of Federal case law but provides for interpretation in a manner consistent with the needs and customs of tribal institutions.		X		
B. Constraints on Tribal Government Governing Capacity - Administration of the Trust Responsibility by Federal Agencies - Status of Tribal Governments in the Federal Domestic Assistance Program Delivery System				
*Congress should enact legislation guaranteeing the permanency of tribal governments within the Federal domestic assistance program delivery system.		X		
*Congress should enact legislation to resolve the inconsistencies of Federal domestic assistance legislative and administrative procedures as they define the status of tribal governments within the Federal domestic assistance program delivery system. The implementation of principles which would resolve such inconsistencies should establish a clear definition of tribal government eligibility for each Federal domestic assistance program, and guarantee the jurisdictional independence of tribal governments as permanent political entities within the Federal domestic assistance program delivery system.		X		
*Congress should authorize the waiver of administrative regulations of Federal domestic assistance programs which condition eligibility on population formulas. Allocation of funds, however, should employ some population criteria such as that utilized under P.L. 93-638 to provide adequate funding to tribes with smaller population bases.		X		
*Congress should establish Federal policy recognizing the sovereign right of a tribal government to form its own government. In accordance with Federal policy, eligibility criteria of Federal domestic assistance programs should not force tribal governments to form consortiums or inter-tribal affiliations in order to become eligible for Federal domestic assistance.		X		

Recommendations:	Action to be taken by			
	Executive	Congress	Interior	Tribe
*Congress should amend the Intergovernmental Cooperation Act of 1968 (40 U.S.C. §535 and 42 U.S.C. §1401) to include tribal governments in the scope of intergovernmental activities and access to Federal program information provided for under the Act.		X		
*Congress should amend the Law Enforcement Assistance Act (42 U.S.C. §3711, et seq.) to remove state jurisdiction over tribal governments in the service delivery system of Law Enforcement Assistance Administration programs, thereby allowing programs and monies to flow directly to the tribal government.		X		
Funding and Public Law 93-638.				
*Congressional recognition of the legal status of tribal governments should include the recognition that tribal governments must have the financial resources necessary to support the basic operations of tribal government, so that tribes may effectively exercise their inherent governmental powers.		X		
*Congress should direct the Bureau of Indian Affairs to undertake a needs assessment of each tribal government to determine tribal capability to finance the basic operations of tribal government.		X		
*Congress should authorize the evaluation of the administrative regulations of the Self-Determination Grants Program, and require the revision of the regulations where such regulations narrow the scope of Congressional intent articulated in the Indian Self-Determination and Educational Assistance Act.		X		
*Congress should assure that in both administrative and judicial proceedings, Indians will be assured competent, independent counsel.				

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT

Chapter 5: Tribal Government - C. Public Law 280

Recommendations:	Action to be taken by:			
	Executive	Congress	Interior	Tribe
"Legislation should be passed providing for retrocession adhering to the following principles:				
1. Retrocession shall be at tribal option with a plan.				
2. A flexible period of time for partial or total assumption of jurisdiction, either immediate or long term, should be provided.				
3. There should be a significant preparation period available for those tribes desiring such, with a firm commitment of financial resources for planning and transition.				
4. There should be direct financial assistance to tribes of tribally designated organizations.				
5. LEAA should be amended to provide for funding prior to retrocession for planning, preparation or concurrent jurisdiction operations.				
6. Provisions should be made for federal corporate or charter status for inter-tribal organizations (permissive, not mandatory).				
7. There should be tribal consultation with state and county governments concerning transition activities (no veto role, however).				
8. The Secretary of Interior should:				
a. Act within 60 days on a plan or it is automatically accepted;				
b. base non-acceptance only on an inadequate plan;				
c. delineate specific reasons for any non-acceptance;				
d. within 60 days after passage of the Act, the Secretary of the Interior shall draft detailed standards for determining the adequacy or inadequacy of a tribal plan. Such standards shall be submitted to Congress who shall have 60 days to approve or disapprove such standards.		X	X	
9. Any non-acceptance of retrocession by the Secretary of the Interior shall be directly appealable to a Three Judge District Court in the District of Columbia; and the Department of Interior should be obligated to pay all reasonable attorney fees as determined by the federal court, except where such appeal is deemed by the court to be frivolous.				
10. Once partial or complete retrocession is accomplished, the Federal Government should be under a mandatory obligation to defend tribal jurisdiction assertions whenever any reasonable argument can be made in support of them.		X		

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
Tribal Justice Systems.				
*Congress should appropriate significant additional monies for the maintenance and development of tribal justice systems:				
1. Funding should be direct to tribes.				
2. Funding should be specifically provided to enable tribal courts to become courts of record.		X		
*Congress should provide for the development of tribal appellate court systems.				
1. Appellate court systems will vary from tribe to tribe and region to region.				
2. The development of tribal court systems will require tribal experimentation and time.				
3. Congress should statutorily recognize such appellate systems as court systems separate from state and Federal systems.				
4. When tribal court systems are firmly operative, Federal court review of their decisions should be limited exclusively to writs of habeas corpus.		X		
Federal Justice Systems.				
*Major Crimes Prosecution. The Department of Justice should issue regulations or orders directing U.S. Attorneys to accept criminal referrals from qualified tribal and/or BIA police or investigators.	X			
Congress should hold oversight hearings to see that this recommendation is accomplished or receive an explanation why it should not be done.		X		
*Major Crimes - Double Jeopardy and Concurrency of Tribal Jurisdiction Congress should hold oversight hearings with representatives of the Department of Justice, BIA and tribal authorities, particularly police and judges, to inquire into the jurisdictional relationship of the tribal and Federal courts and ascertain what legislation, if any, is needed as a consequence of this decision.		X		

Recommendations:	Action to be taken by:			
	Executive	Congress	Interior	Tribe
Assimilative Crimes Act.				
"Congress should hold oversight hearings with representatives of the Department of Justice and Interior and with Indian tribal authorities to ascertain the scope of this problem.		X		
"Corrective legislation, if any is needed, must be premised on the continued protection of tribal self-government. The scope of the application of the Assimilative Crimes Act must be strictly limited. It must be recognized and accepted that the laws of the tribes will not always conform to the laws of the state in which their reservation lies. This is the meaning of self-government.		X		

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
"Congress should require the Department of the Interior to provide an annual comprehensive report and fiscal accounting of all federal Indian programs by department in order to make an accurate assessment of the effectiveness of Indian participation in federal programs. Such report to include an evaluation of on-going programs. Such report to include a separate accounting of funds distributed directly to Indians from those used for administration and salaries of federal employees.		X		
"The Secretary of the Interior develop and implement a plan to transform the Bureau of Indian Affairs into a more efficient organization. Such a plan to provide for a transfer of management responsibilities to tribes with more emphasis on technical and administrative support and:				
1. A new organizational structure be established to transfer authority and responsibility to the local level. Particularly, the present area offices be divested of their line authority and established as service centers.				
2. To establish a planning and budget system which will stimulate Indian tribal participation and place more emphasis on tribal project priorities in the Congressional appropriation process. Tribes should participate in the budget process directly with the Commissioner or Assistant Secretary of Indian Affairs and Congress to the greatest degree possible.				
3. To establish and install a program to improve the communications and management information system throughout the BIA and contract for access to an automatic data processing system which will also be made available to tribal computer terminals.				
4. To reorganize the personnel system to improve BIA effectiveness while continuing to train, hire and upgrade Indians.			X	
"The Executive Branch should direct the Secretary of the Interior to compile an appropriate manual of operations which will define and publish minimum and standard threshold trust protections in management, procedures, accounting, monitoring, evaluation and reporting which should be provided as a standard for all Departments and their field offices as well as Indian tribes.	X			

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
*The Executive Branch direct and coordinate new innovative methods for the delivery of technical assistance to Indians including provisions for:				
1. A national Indian skills bank				
2. A more direct administration of grant and contract funds by Indian tribes and organizations				
3. The consideration of a model national Indian technical assistance center - consolidating multi-agency personnel with grants and contracts. This service center to test the feasibility of an independent agency service center.	X			
*The President prepare and submit to Congress a plan creating a Department of Indian Affairs or independent agency to be comprised of appropriate functions now administered by the Bureau of Indian Affairs; the Indian Health Service; the Office of Indian Education; the Department of Health, Education and Welfare; and agencies within the Interior and Justice Departments; and				
1. To prepare a plan for a transfer of appropriate programs and functions to the new agency,				
2. To designate the Secretary of the Interior and the Secretary of Health, Education and Welfare to coordinate efforts to accomplish this.	X			
*Congress enact legislation establishing an Indian Career Service independent of the Civil Service system throughout Federal-Indian programs.		X		
*Congress establish permanent standing or special select committees for Indian Affairs in each House of Congress or place all jurisdiction or legislative authority in one Joint Select Committee for Indian Affairs.		X		
*The Executive Branch promote a more aggressive educational program of publishing and distributing to tribal governments copies of codes, regulations, standards, operational manuals, and other materials crucial to management and administration.	X			
*Congress enact affirmative legislation guaranteeing the permanence of tribal governments within the federal system.		X		
*Congress enact legislation establishing tribal governments as equal to state governments in the federal delivery system of federal domestic assistance programs.		X		

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT -18-
Chapter 6: Federal Administration

Recommendations:	Action to be taken by			
	Executive	Congress	Interior	Tribe
*Congress authorize the amendment of all enabling legislation, program acts, and administrative regulations of federal domestic assistance programs which require tribal governments to come under state jurisdiction in the delivery system of federal domestic assistance programs.		X		
*Congress enact passage of the Federal Program Information Act (S. 3281) to allow tribal governments meaningful access to federal program information.		X		
*Congress mandate the Bureau of Indian Affairs or the independent Indian agency to make available to all Indian tribes copies of all operations and procedures manuals used by the Indian agency in its administration of Indian affairs. Congress should further mandate the Bureau of Indian Affairs or the independant Indian agency to make available to all Indian tribes copies of Title 25 of the United States Code.		X		
*Congress appropriate such funds as are necessary to allow the preparation of operations and procedures manuals to be used by tribal governments in their administration of tribal government affairs. These manuals would include operation models presenting alternative systems of financial management, accounting, personnel policies and procedures, management information and organizational structure.		X		
*Congress authorize a management study of the Indian Health Service to be conducted by the Government Accounting Office or to be separately contracted utilizing experts from the public and private sector and representatives from the Indian community.		X		
*Congress appropriate such funds as are necessary to effectively implement the Joint Funding Simplification Act.		X		
*Congress provide through appropriate legislation for the removal of all Indian education programs from the Office of Education in the Department of Health, Education and Welfare and the Bureau of Indian Affairs to a consolidated independent Indian agency.		X		
*A duly elected Board of Regents be recognized as a unit representing tribes and tribal opinion to contract for and administer post-secondary schools and multi-tribal elementary and secondary schools.		X	X	

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT

Chapter 6: Federal Administration

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
"Congress enact Senate Bill S. 2715 - Public Participation in Government Proceedings Act of 1976.				
"The Secretary of the Interior, under existing authority, should undertake the amendment of the rules of procedure of the Department of the Interior (43 CFR Subtitle a, 1975) pursuant to Sec. 4(d) of the Administrative Procedure Act (5 U.S.C. 553(e) and 43 CFR 14.1) to provide compensation for certain participants in the rule-making and adjudicatory proceedings conducted by the Department of the Interior, including public informal hearings conducted in rule-making procedures.			X	
"Congress appropriate sufficient funds to establish a separate Indian Career Service as mandated by Section 12 of the Indian Reorganization Act.		X		
"The Executive Branch direct the Indian Service to develop "standards of health, age, character, experience, knowledge and ability for Indians who may be appointed, without regard to civil service laws, to the various positions maintained now or hereafter," by any federal agency "in the administration of functions or services affecting any Indian tribe."	X			
"The Indian Career Service standard be developed without regard to the current standards being illegally imposed by the Civil Service Commission and should be designed to take into account the "cultural environment", and "life knowledge and skills".		X		
"The Indian Career Service have a Division of Recruitment and Training which will be responsible for the following:				
1. Identify training funds as an identifiable budget line item to be sure that training is provided.				
2. Develop and operate an Indian intake and development program.				
3. Institute a program to educate managers, supervisors and employees of their Equal Employment Opportunity and Indian preference rights.				
4. Place special emphasis on developing avenues for potential recruitment of qualified Indians, projecting future manpower needs of the Indian Service, and development management and skills for development training of Indians to insure that they have adequte upward mobility.				
5. Develop intern programs with appropriate colleges, universities, training schools and other institutions of higher learning to facilitate Indian career development and recruitment.		X		

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
"The Indian Career Service establish standards for the appointment of Indians to be developed by a task force composed of personnel and consultants within the Federal government from existing independent agencies not governed by Civil Service regulations.		X		
"The Executive Branch contract independently or under Public Law 93-638 for developing various aspects of Indian Career Service.	X			
"The Indian Career Service should, in addition to administering the Indian Career Service of the Federal government, assist tribes which desire it to develop tribal career service systems.		X		
"The Indian Career Service become a permanent and integral division of the Indian Service.		X		
"Assuming a new Indian agency is established and all Indian programs are transferred to this agency, the Indian Career Service personnel system should apply to the appointment of personnel to that agency.		X		
"In the event agencies or departments other than the BIA, IHS or the new Indian agency continue to administer some Indian programs, Section 12 of the IRA should be clarified by amendment or Executive Order to insure its application to all agencies.	X	X		
"The Indian Career Service be responsible for developing minimum appointment standards in these agencies or divisions and assist them in developing training and recruitment programs tailored to their needs.		X		
"The IRA should be amended to provide for the award of back pay, costs, and attorney's fees incurred by Indians as a result of violations of the Indian preference employment rights.		X		
"Congress should hold oversight hearings on a regular basis to determine the adequacy of implementation of the Indian Career Service and the training, recruitment and advancement of Indians within the Indian Service.		X		
"Congress repeal appropriate pre-IRA preference laws due to the confusion caused by the existence of so many.		X		

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
"Congress amend Section 7(b) of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. §450e(b) (Supp. 1976) to clarify its applicability to all Federal agencies and further clarify the scope and intent of the language of 7(b) "or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians."		X		
"The Congress should request the General Service Administration to amend the Federal Procurement Regulations to provide uniform government-wide directives for the implementation of P. L. 93-638 by all federal contracting officers;				
a. That this amendment specifically state the fact that an Executive Order cannot modify an Act of Congress and, for this reason alone, P. L. 93-638 requiring Indian Preference has priority over any racial non-discrimination clause dictated by Executive Order 11246.				
b. That, in addition, Title VII, Section 703(i) of the 1964 Civil Rights Act (which Executive Order 11246 was issued to support) does, in itself, exempt Indians and allow them permissible preferences;				
c. That standard Indian Preference language be included in the regulations.		X		
"Congress request that the Office of Federal Contract Compliance within OMB offer a statement in support of the amended Federal Procurement Regulations.		X		
"The Interagency Procurement Policy Committee coordinate the application of the amended Federal Procurement Regulations.	X			
"Congress request the BIA to develop a clear position on trust and treaty responsibilities and formulate and communicate to all agencies that any appropriate differentiation between Indians and other minorities should be included.		X		
"The BIA compile and maintain a listing of qualified Indian contractors; that such a list include assessments of capability and be updated on a routine basis; that the BIA should notify other agencies of the list and encourage them to utilize Indian contractors; and that procedures for placement on the list and standards for measuring competency be established and distributed to prospective contractors.			X	

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
"A model set of less cumbersome contracting regulations and procedures be drafted and distributed to all agencies; and that the model contracting process would be designed for the use of newly acquired businesses and recognize their organizational shortcomings.	X	X		
"The President submit to Congress a reorganization plan creating a Department of Indian Affairs or independant agency and:				
1. To be comprised of appropriate functions now mainly administered by the Bureau of Indian Affairs, Indian Health Service, and agencies within the Interior and Justice Departments. An Office of Trust Rights Protection should be consolidated as set forth in Chapter 4.				
2. To prepare a plan for a transfer of appropriate programs and functions to the new agency. This should include a review of those programs identified in Part III of this chapter. In the interim, the President should establish a temporary special action office within the White House which would be charged with responsibility for preparing a plan for the President.				
3. The President designate the Secretary of the Interior and the Secretary of Health, Education and Welfare to implement and coordinate efforts to evaluate and plan the transfer of various agencies in the event of the establishment of a Department of Indian Affairs or an Independent Indian agency.	X			

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT

Chapter 7: Economic Development - Natural Resources Development - Land

Recommendations:	Action to be taken by			
	Executive	Congress	Interior	Tribe
*Congress should appropriate sufficient funds and technical assistance to the tribes to insure the preservation, consolidation, and acquisition of Indian lands because an adequate land base is essential to meaningful tribal development. This should include assisting tribes in devising comprehensive land consolidation plans, and assisting landless tribes in establishing a land base. To encourage such land consolidation, Congress should enact legislation which will:				
1. Increase the funds in the Revolving Loan Fund (Indian Financing Act) administered by the Bureau of Indian Affairs, and create a set-aside specifically for tribal land acquisition. These loans should carry lower interest rates and longer terms than now exist for other enterprises receiving loans under the Fund. Present requirements should remain which stipulate that there be a reasonable prospect of repayment and that the applicants must have exhausted other avenues of reasonable financing, but there should be less rigid requirements relating to the profitability of the land.				
2. Mandate that the Revolving Loan Fund maintain a limited standby line of credit for tribes to use when immediate access to funds is necessary to purchase key tracts of land which are for sale and are essential to the tribe's acquisition or consolidation plans but would probably otherwise be lost to the tribe during the loan application process.				
3. Permit tribes to have a "first right of purchase" option when individually held trust land or non-Indian held land within a reservation is offered for sale.				
4. Amend Section 5 of the Indian Reorganization Act to provide for an increased appropriation of funds for land acquisition, particularly for those tribes which are presently landless.				
5. Amend sections 1465 and 1495 of Title 25 of the U.S. Code to delete the provision which restricts the use of the Indian Financing Act funds for purchase of lands outside the exterior boundaries of reservations unless the purchaser was the owner of trust or restricted interests in the land prior to purchase.				
6. Amend the "excess property" provisions of the Federal Property and Administrative Services Act (40 U.S.C. §471 et. seq.) to specifically provide for transfers of excess property, whether located within or without the exterior boundaries of an Indian reservation, to the Bureau of Indian Affairs for use by Indian tribes.				
7. Mandate the Secretary of Interior to establish and make public specific criteria for accepting Indian lands in trust. Such criteria should include a presumption that lands owned in fee by a tribe or to be acquired in fee shall be accepted in trust unless the Secretary sets forth in writing sufficient reason for refusal.				
8. Mandate the Executive to examine and report to the Congress on the feasibility of consolidating the Indian Land Acquisition Loan				

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
Program administered by the Department of Agriculture and the BIA loan programs into one federal Indian loan program designed exclusively for providing funds for tribal land consolidation plans.				
*To provide solutions for the debilitating problems presented by the fractionated ownership of heirship lands, Congress should enact legislation which will:				
1. Amend the U.S. Code to enable tribal governments to adopt comprehensive plans for resolving fractionated land heirship problems. Such plans could include the following procedures:				
a. Guaranteeing that tribes have first right of purchase when heirship lands are sold.				
b. Authorizing the holders of a majority of the ownership interests in a trust, or restricted allotment, to determine sale of the land.				
c. Enacting tribal laws governing descent and distribution of fractionated heirship lands to allow purchase, at the time of probate of estates, undivided interest in allotments in heirship status which have reached an unreasonably small fraction; restriction of inheritance of trusts or restricted allotments to members of the tribe; or restriction of inheritance to a life estate with a remainder in the tribe, but only upon payment of fair market value compensation to the would-be heir.				
d. Condemnation with fair compensation by the tribe of lands in heirship status which have reached an unreasonably small fraction.				
2. Repeal statutes which are obstacles to exchanges and/or sales between owners of allotment interests.				
3. Reform partitioning laws to facilitate partitioning of allotment interests held by heirs, if partitioning is in the best interest of the heirs and the tribe.				
4. Transfer the probate authority over trust property now held by the Secretary of the Interior to the tribe.				
5. Amend the special laws regarding the Five Civilized Tribes and the Osage to merge them with the general laws governing the other tribes, at least with respect to jurisdiction over small estates ($5,000 or less) and with respect to their capacity to write laws governing the descent and distribution of property.		X		
*Congress should investigate the apparent disproportionate incidence of federal condemnation of Indian land for reclamation projects in comparison to land owned by non-Indians.		X		

Chapter 7: Economic Development - Natural Resources Development - Water Resources

Recommendations:	Action to be taken by			
	Executive	Congress	Interior	Tribe
"The Secretary of Interior should allow the tribes to develop their own water codes that would be designed to regulate all forms of water usage on or adjacent to the reservation.				
"Congress should enact legislation to provide for an Indian trust impact statement (as outlined in Chapter 4) any time Federal or state projects affect Indian water resources.		X		
"The Secretary and the Bureau of Indian Affairs should take the following actions or provide tribes with the financial capability to:				
1. Inventory all tribal water resources.				
2. Complete land use surveys particularly to determine lands which are irrigable or which can use water for other beneficial uses.				
3. Conduct adequate engineering studies of the Indian water resources necessary for litigation.				
4. Make available to the tribes funds to conduct legal and engineering research regarding particular water resources and to proceed with litigation where necessary.			X	
"The Federal Government must require the state to include the determination of Indian water rights in their water rights allocation process. Tribes must have the authority to insure that, when tribal property or tribal members are concerned, the tribe can require affirmative action on tribal needs before allocating its resources to non-Indians. This would extend the Winters Doctrine, which already is a legal demonstration of the differences in tribal rights and Federal rights.	X	X		
"Congress should investigate litigation in the San Juan River Basin, the Rio Grande Basin, and the Colorado River Basin, and it should likewise investigate the Walton cases, the Bel Bay case, and the Big Horn Case.		X		

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
*Indian tribes should not allow any further exploitation of non-renewable resources by private, non-Indian corporations, unless specific tribal aims make such exploitation desirable.				X
*Tribes should examine their circumstances with the utmost seriousness to determine if the present development strategies advance or impede progress towards the goals of self-determination and a high standard of living for Indian people.				X
*If the tribes do decide to enter joint ventures, they should make agreements with developers which keep ownership and control of minerals and processing in Indian hands. Contracts-for-work on technology purchases would be examples of such agreements. Tribes should employ legal counsel and geological experts to aid them in their mineral contract decisions whenever possible.				X
*The Department of the Interior must clarify the role of the BIA in a way that leaves no doubt that the BIA's primary responsibility is to the Indians only and not to the developers or even to American society as a whole. This primary responsibility clearly implies that the BIA should ascertain and honor Indian interests at every state of the mineral leasing process. Less obviously, it also implies that the BIA should encourage and train Indians to make leasing decisions on their own, since tribal self-determination is in their ultimate best interest.			X	
*The U.S. Government must make available technical assistance and teaching personnel in geological fields so that Indians can learn to be surveyors for their own tribes.	X	X		
*The present laws should be amended to insure tribal control of the development of Indian-owned natural resources including water, coal, oil, uranium, gravel and clay, and other hydrocarbons.		X		
*The laws, once amended, should be flexible enough to allow the tribes to determine for themselves the best form of organization which will enable them to control development and realize the maximum financial returns from the development of their natural resources.		X		

Chapter 7: Economic Development - Natural Resource Development - Mineral Resources

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
*Title 25, Sections 171 and 177 of the Code of Federal Regulations, should make clear that alternatives exist to the outdated lease agreement (contracts), most immediately with regard to the development of coal. Reclamation regulations also should be clarified.		X		
*The Department of the Interior should be directed to act immediately to make the technical capability of both the United States Geological Survey and the Bureau of Mines available to the tribes and the Bureau of Indian Affairs for the purpose of completing the accumulation of critical technical data that are related to Indian natural resource development. Specifically, a comprehensive natural resource inventory that states the quantified amount, quality, and market value (both current and projected for at least ten years) should be prepared for each reservation by the United States Geological Survey and the Bureau of Mines.			X	
Timber.				
*A positive solution to management of Indian forest lands is to insure that control over Indian resources rests in tribal hands. As Indian tribes acquire the technical capability to manage their own resources, with Federal financial assistance, the role of the BIA must change from manager to technical assistant.			X	
*Congress should appropriate money directly to the tribes to enable them to carry out surveys of their timber resources and to establish development programs in timber industries. This does not diminish the trust responsibility of the Federal government.		X		
*The trust responsiblity includes securing the highest possible royalty or rental rates, guarantees of full regeneration, reasonable duration of leases and the enforcement of the lease.			X	

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT

Chapter 7: Economic Development - Natural Resource Development -Fish & Wildlife Resources

Recommendations:	Action to be taken by.			
	Executive	Congress	Interior	Tribe
*In order to create an atmosphere of stability in which reasoned agreements and plans for future management and allocation of fish and wildlife resources may prevail, Congress should by resolution clearly state that it is not the policy of Congress to abrogate Indian hunting, fishing or trapping rights.		X		
*Federal fish and game authorities must play an active role in the effort to stimulate the cooperative efforts of both the tribes and the states.	X		X	
*Congress should appropriate funds necessary to support tribal and inter-tribal organizations in the development of fishery management programs.		X		
Other Factors in Indian Economic Development - Manpower Development.				
*Congress should enact legislation that will provide funding for the education of counselors in technical disciplines.		X		
*Congress should enact legislation that will provide funding for On-the-job career orientation programs.		X		
*Congress should enact legislation that will provide funding for the development of "bridge" programs or prep schools.		X		
*Congress should enact legislation that will provide funding for programs to recruit Indian students for college.		X		
*Congress should enact legislation to provide funding for counselors at colleges and universities with a significant Indian enrollment.		X		
*Congress should enact legislation that will provide funding for tutorial and study assistance for Indian college and university students.		X		
*Congress should enact legislation that will provide funding for the development of a program of paid summer jobs in business and industry.		X		
*Congress should enact legislation that will provide funding for scholarships for an increased number of students.		X		
*Congress should enact legislation that will provide funding to establish a placement agency to encourage Indians with training and expertise to return to the reservation.		X		

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT

Chapter 7: Economic Development - Availability of Investment Capital

Recommendations:	Action to be taken by:			
	Executive	Congress	Interior	Tribe
*Congress should enact legislation authorizing that:				
1. The trust funds managed by the Bureau of Indian Affairs and identified as Indian Service Special Disbursing Agent (ISSDA) and Indian Monies not Proceeds of Labor (IMPL) should become interest-bearing accounts when deposited in the U.S. Treasury.				
2. The interest on the ISSDA "Special Deposits" should accrue to tribal trust fund accounts, or directly to the tribe, not to IMPL accounts.				
3. Interest should be paid on accumulated interest in U.S. Treasury accounts. This can be done by changing the words "simple interest" to "compound interest" in the regulations.				
4. The current 4% simple interest rate should be increased to a 6% compound interest rate.				
5. The Branch of Investments of the Bureau of Indian Affairs should invest all available Indian monies wherever it is possible to earn more than is earned in U.S. Treasury accounts.				
6. Indian trust funds removed from trust for tribal investment, and then returned to U.S. Government accounts, should return to trust status;				
7. Tribal participation in trust funds management should be encouraged and implemented.				
8. Restrictions on the use of tribal trust funds for land purchase should be lifted.		X		
*The Congress should enact legislation to:				
- Amend 25 U.S.C. §1522 to increase the $50,000 limitation on non-reimbursable grants to Indian-owned economic enterprises.				
- Ensure that funds and technical assistance available through SBA's "8(a) Program" (25 CFR §124.8 et. seq.)and "7(a) Program" (25 CFR §122.1 et. seq.) are extended to businesses which are chartered or operated by tribal governments.				
- Ensure that the technical and management assistance available through OMBE is extended to Indian business enterprises on the same basis and with the same priority as it is extended to other minority business enterprises.				
- Reaffirm, through enactment of appropriate legislation, the tribal governmental power to waive its immunity from suit.		X		
*Judgment funds should earn interest from date of entry not from the date they are appropriated by Congress.		X		
*Congress should pass appropriate legislation providing for the accrual of interest at a stipulated rate from date of entry of judgment rather than from the date of Congressional appropriation.		X		

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
*All of the funds available through the means mentioned above should be directed to tribal enterprises which will develop the reservation economy rather than continue the dependency relationship of Indian tribes and the U.S. Government.		X		
*In relations between tribes and corporations, the BIA should represent and defend unequivocally the interest of the tribes. This should include meaningful tribal participation in leasing decisions. Specifically, Congress should direct the BIA to:				
- Create a Branch of Investment Counseling in the Bureau of Indian Affairs.				
- Investigate the advantages and disadvantages of establishing either a floating interest rate geared to average market yield or a floor rate with small penalty charges for Indian trust monies.				
- Consider applying the average daily balance concept as used in many consumer credit operations to provide an interest rate for the rapidly changing balances in some Indian trust funds as opposed to non-payment of interest.				
- Increase the staff of the BIA Branch of Investments.		X	X	

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
*Congress should provide by appropriate legislation that lands held in trust for an Indian tribe and assigned to an individual Indian are exempt from Federal taxation and that the income from such lands is also exempt, in the same way that restricted and allotted lands are presently exempt.		X		
*Congress should provide by legislation that Federal laws and treaties advanced as evidencing Congressional intent to exempt Indians from taxation shall be construed broadly and in a light most favorable to the Indians, and that the Internal Revenue Service should be supportive of such intent.		X		
*Congress should provide by appropriate legislation that the benefits received from those programs advanced in aid of the economic development of Indians shall not be subject to Federal taxation.		X		
*Congress should amend the Internal Revenue Code to provide that provisions of the Code which apply to non-Indian governments are to be applied in a like manner and to the same extent to Indian tribal governments. This would include the same benefits enjoyed by individuals in their relations to tribal governments.		X		
*Congress should amend or repeal, as appropriate, those statutes which authorize state taxation which is in conflict with Federal-Indian policy to foster economic development of reservation Indians and enhance tribal self-government. Specifically, the Buck Act provision for state taxation of Indians with respect to gasoline on the reservation and state taxation of mineral production on leased Indian lands should be repealed or amended.		X		
*Congress should provide by appropriate legislation that state taxation within reservations be invalidated as applied to non-Indians and Indian tribes; prohibit taxation of the non-Indian interest in cases of tax exempt lands leased from Indians and income of non-Indians performing services for tribal government; codify the non-interference test for determining the validity of state taxes of non-Indians on reservations which provide for the burden of establishing the non-interference on the state.		X		

Chapter 7: Economic Development - Taxation

Recommendations:	Action to be taken by			
	Executive	Congress	Interior	Tribe
*Congress should provide by amendment of the Indian Reorganization Act that income derived from development of tax exempt lands located off the reservation is exempt from state taxation for Indians and Indian tribes.		X		
*Congress should enact legislation which provides that where an Indian tribal government enacts a tax in furtherance of Federal-Indian policy designed to enhance the tribe's self-governing capacity or to protect or foster tribal economic development of Indian people or the tribe, such tax will have the effect of excluding any inconsistent state tax which would be applicable to the same person or activity.		X		

93-440 O - 78 - 41

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT

Chapter 8: Social Services - Welfare Systems

Recommendations:	Action to be taken by:			
	Executive	Congress	Interior	Tribe
*Congress should hold oversight hearings with representatives of the Bureau of Indian Affairs, and in the Department of Health, Education and Welfare, the Indian Health Service, the Office of Civil Rights and the Social and Rehabilitation Services to clarify the division of responsibilities between Federal and state agencies and establish the fact that Indians are entitled not only to reservation social services, but to the full range of other welfare services which are available to all citizens, whether they live on or off of the reservation.		X		
*Congress should direct the responsible Federal agencies to undertake immediate consultation with state agencies to clarify the causes for the breakdown in delivery of assistance to Indians by the states. These Federal agencies should be required to file a full and complete report with the oversight committee within six months so that Congress may enact remedial legislations as may be indicated.		X		
*Federal funds under the Social Security Act and other Federal assistance legislation should be withheld from states and counties which unreasonably refuse to include Indians in Social Security and other assistance programs on the grounds that Indians are solely and exclusively a Federal responsibility.	X	X		
*Many state and county welfare programs impose as a condition for eligibility that a person be devoid of any assets. The possession of trust money or land should not be a factor in determining welfare eligibility for either state or Federal assistance.	X	X		
*The Bureau of Indian Affairs should be required to publish in the Federal Register and in the Code of Federal Regulations their procedures and guidelines for provision of general assistance under the Snyder Act.			X	
*The procedure and practices employed in the BIA's 64 local welfare offices in providing general assistance should be made uniform.				
- The application of state categorical-benefit standards when applying for BIA assistance (which is more generous) should be discontinued.				
- The practice of discretionary action on the part of local BIA caseworkers should be discontinued and supplanted with the use of standard regulations.			X	

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
"Congress should, by comprehensive legislation, directly address the problems of Indian child placement. The legislation should adhere to the following principles:				
1. The issue of custody of an Indian child domiciled on a reservation is the subject of the exclusive jurisdiction of the tribal court where such exists.				
2. Where an Indian child is not domiciled on a reservation and subject to the jurisdiction of non-Indian authorities, the tribe of origin of the child shall be given reasonable notice before any action affecting his/her custody is taken.				
3. The tribe of origin shall have the right to intervene as a party in interest in child placement proceedings.				
4. Non-Indian social service agencies, as a condition to the Federal funding they receive, shall have an affirmative obligation - by specific programs - to:				
a. provide training concerning Indian culture and traditions to all its staff;				
b. establish a preference for placement of Indian children in Indian homes;				
c. evaluate and change all economically and culturally inappropriate placement criteria;				
d. consult with Indian tribes in establishing a., b., and c.				
5. Significant Federal financial resources should be appropriated for the enhancement or development, and maintenance of mechanisms to handle child custody issues, including but not limited to Indian operated foster care homes and institutions:				
a. in reservation areas such resources should be made directly available to the tribe;		X		

Chapter 8: Social Services - Health

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
*Congress should appropriate sufficient funds for the continuance of present Indian centers in urban areas which assist Indians in obtaining medical and other social services; and should encourage, with funds and guidance, the establishment of additional such centers in all urban areas where Indians live.		X		
*Congress should, by legislation, create in the Office of Civil Rights a monitoring and enforcing division targeted at discriminatory urban health providers.		X		
*Indian Health Service should receive supplemental fundings for providing outreach medical care to isolated, rural Indians.		X		
*Congress should appropriate funds in excess of those authorized in Public Law 94-437 in order to adequately meet the needs for the construction of health care facilities and their on-going maintenance.		X		
*Congress should appropriate funds in excess of those authorized in Public Law 93-437 in order to adequately meet the needs for properly equipped health care facilities.		X		
*Congress should, by legislation, create in the Office of Civil Rights, an office charged with monitoring all IHS contract providers.		X		
*The use of mobile health vans at Navajo and Rosebud, and the television satellite formerly used in Alaska, should be expanded to all other isolated, inaccessible areas.		X		
*Congress should authorize funds to allow IHS to offer appropriate monetary and other incentives and benefits which will make IHS work more desirable to health professionals, both for purposes of retaining existing personnel and attracting potential personnel.		X		
*Congress should establish in HEW or BIA a recruiting office charged with exploring innovative staff sources, and designing an intensive recruiting campaign.		X		
*Congress should create a medical paraprofessional corps modelled after the Peace Corps and VISTA.		X		

Recommendations:	Action to be taken by.			
	Executive	Congress	Interior	Tribe
*IHS should be funded to allow the expansion of present training programs so that they are located in individual services units and geared to specific staff shortages there.				
*IHS should, through a special training program, develop a cadre of the indigenous paraprofessionals to work in the areas of mental health and alcoholism, the two areas in which cultural sensitivity and open communication are especially crucial to successful treatment.				
*Those tribes which wish to incorporate traditional medicine into the health delivery system should contract for it under P.L. 93-638. In such cases, the civil service standards required by IHS under P.L. 638 should be waived.				
*Congress should appropriate funds for on-going orientation programs to educate IHS employees in Indian culture, and to provide for Indian interpreter positions in all service units.		X		
*The IHS budget and management system should be reviewed and revamped to insure optimal utilization of Congressional funding. Congressional oversight hearings are also warranted. Auditing of all IHS services should be carried out periodically, to correct the present lack of accountability.	X	X		
*Congress should authorize a management study of the Indian Health Service to be conducted by the Government Accounting Office or to be separately contracted utilizing experts from the public and private sector and representatives from the Indian community. This study should be conducted within the context of evaluating the feasibility of phasing the Indian Health Service into an independent Indian agency at an appropriate time. A management study of the Indian Health Service should include the evaluation of personnel management, budget, management information and the organizational structure of the Indian Health Service.		X		

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT
Chapter 8: Social Services - Health

Recommendations:	Action to be taken by:			
	Executive	Congress	Interior	IHS Tribe
*An Executive Order should establish an oversight mechanism allowing for tribal government input and mandating BIA, HUD, and IHS to coordinate budget and planning cycles for the construction, repair, and maintenance of roads, houses, water systems, sewer systems and sanitation facilities.	X			
*Congress should appropriate to IHS sufficient funds for the purchase of fully-equipped ambulances for reservations presently without them, together with provisions for trained drivers and for maintenance of vehicles.		X		
*Congress should appropriate to IHS funds for the purchase of vehicles to transport non-emergency patients to and from health facilities.		X		
*USDA should review and revamp its food supply system to insure consistent delivery of nutritious, health-giving foods to the Indian people, with particular emphasis on high-risk groups such as infants, children, pregnant women, the elderly, and the handicapped; and to insure the combined, simultaneous use of both food stamps and donated foods for those tribes desiring it.	X			
*BIA should replace the monopolistic trading post with its high prices and inferior stock, with as many efficiently-managed food stores as are needed for accessibility by Indian people wherever they live on the reservation. These stores should eventually be transferred to Indian management.			X	
*Congress should appropriate funds on a tribe-wide basis for programs on health education, hygiene, and nutrition.		X		
*IHS should take up the challenge recently given it in Senate bill S. 3184 to upgrade the demonstration projects heretofore administered by NIAAA.				X
*Congress should appropriate funds in excess of those authorized by P.L. 94-437 to insure the achievement of the goals outlined in the Declaration of Policy of the 1976 Indian Health Care Improvement Act.		X		

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
*Indian Health Service should establish a formalized mechanism through which IHS officials can work closely with Indian people toward the successful implementation of Public Law 94-437.				
*Congress should mandate the full cooperation of the Indian Health Service in the implementation of the Indian Self-Determination and Educational Assistance Act (Public Law 93-638).		X		
Education.				
*Congress must provide through appropriate legislation for the transfer, at the appropriate time, of all Federal education programs from their present agencies to the consolidated Indian agency recommended in earlier chapters of this report. This agency would be required to design, in conjunction with Indian people, education programs it establishes to respond to the needs of Indian people, to meet their distinct needs. Such a program would require more efficient administration and an accurate funding mechanism to assure that target monies reached the tribes.		X		
*Congress will enact legislation that would aid tribal governments in assuming the responsibility for control of education in accordance with their desires. Precisely, such legislation should include:				
1. Amendment to P.L. 874 and 815 such that: (a) the dollars directed to aid schools educating Indian students would be funneled through a tribal monitoring system, then to the school; (b) a set-aside provision is made to cover costs of tribal administration.				
2. Amendments to P.L. 638 such that: (a) a duly elected Board of Regents may be recognized as a unit representing tribes and tribal opinion to contract for and administer post-secondary schools with a multi-tribal population; (b) in the case of multi-tribal elementary and secondary schools, a duly elected Board of Regents, including at least one representative from each tribe, be recognized as a unit representing tribes and tribal opinion to contract for and administer those schools.				
3. Amendments to P. L. 638 and JOM such that: (a) any dollars contracted for the education of Indian children through P.L. 638 and JOM would pass through a tribal monitoring system. (b) in utilizing this contract or monitoring power with P.L. 638 or JOM a tribe may decide the extent to which it wishes to control the educational system affecting its children. This decision runs the gamut from total tribal ownership and control to utilization of the tribal government only as a monitoring system for Indian education monies. (c) If the tribe opts to set up an organizational unit to monitor funds, a set-aside provision should be made available to cover the costs of tribal administration.				

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
4. Amendments to all Indian education legislation such that: (a) The state or local government not in compliance with agreements and contracts for Indian education programs can be sued by the tribe in a U.S. District Court or in a state court of general jurisdiction. (b) The court may grant to the plaintiff a temporary restraining order, preliminary or permanent injunction or other order including the suspension, termination or repayment of funds or placing any further payments in escrow pending the outcome of the litigation.		X		
*Congress will initiate legislation for the funding and administration, under a consolidated Indian agency for programs:				
1. To study and establish standards for Indian education and develop an accreditation system for Indian schools;				
2. To train non-Indians who teach and work with Indian children as an interim measure until there are enough Indian educators;				
3. To educate and prepare the tribes to organize and operate their own educational systems (to the extent they wish);				
4. To subsidize a long-range effort to train and certify Indian educators for Indian schools;				
5. To subsidize programs for curriculum development and library development for Indian schools;				
6. To provide for a professional clearinghouse to keep education information, i.e., teacher availability, new curricula, and special information flowing from school to school and tribe to tribe;				
7. To give professional Indian educators the opportunity to give regular input on new educational methods and resources to the tribes. The tribes in turn can utilize these suggestions if they choose.		X		
*Congress shall provide, under the umbrella of the consolidated Indian agency appropriate legislation for the administration and funding of improved off-reservation boarding schools. To achieve a restructuring of these schools this funding will be utilized to:				
- Define the goals and objectives for each off-reservation boarding school.				
- Create an academic emphasis that fits the particular goals of each school.				
1. A vocational/technical school with an emphasis on producing trained craftsmen and technicians.				
2. A school for the gifted with an emphasis on academic training.				
3. A school for special learning difficulties with an emphasis on basic skills.				
* It should be noted here that juvenile corrections should be the responsibility of the tribe and not the off-reservation boarding school.				

Chapter 8: Social Services - Education

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
- Organize an admittance and transfer policy for off-reservation boarding school students.				
- Hire sufficient diagnostic staff for each off-reservation boarding school.				
- Hire a program and development specialist for each off-reservation boarding school.				
- Write curriculum that is responsibe to student needs both psychologically and academically.				
- Choose teaching and guidance personnel on the basis of ability to do the job rather than rank in civil service.				
- Give parents the opportunity to contribute ideas and participate in school procedure.				
- Give the communities from which the students come the opportunity to contribute ideas and participate in the off-reservation boarding school procedure.				
- Give the school advisory boards real decision power (as indicated by the IRA).				
- Set up funding structures to separate ORBS from other BIA funded schools.				
- Standardize accounting procedures and fiscal report of all ORBS.				
- Finance the present schools to do their designated job.				
- Remove post-secondary schools run by the BIA from ORBS status so they have the option to control:				
1. staff				
2. budget				
3. programs				
4. enrollment levels				
5. student body				
- Organize an elective process for advisory boards and boards of regents for all BIA schools (Haskell, IAIA, SIPI)		X		
*Congress, through specific legislation will provide funding for scholarships in three academic areas:				
1. vocational education				
2. traditional liberal arts education				
3. graduate level education. Graduate level scholarship should take into account extra expenses of more expensive books and supplies and the greater possibility that the graduate student will be married.				
- Scholarship funding directed through both Indian organizations and tribes which would distribute the money to eligible Indian students.				

Chapter 8: Social Services - Education

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
- Each Indian student who meets the requirements of Section 411(a) (1) of the Higher Education Act of 1965 shall be entitled to a grant in an amount computed under subsection (a) of subsection 411.				
Congress must enact legislation which would, under the consolidated Indian agency, carry out a program for funding and administration of Indian post-secondary schools. Specifically, such legislation should include:				
- Funds for more Indian-owned and operated colleges such that higher education is available to all Indians who desire it.				
- Funds for research in the area of Indian higher education to determine the needs of students both academically and psychologically.				
- Funds to assess the needs of tribes and communities for certain types of vocations and professions.				
- Funds to establish vocational institutions on or near reservations with large populations.				
- Funds to establish liberal arts institutions on or near reservations with large populations.				
- Funds to establish a number of institutions of higher learning for interpreting and sustaining the culture, languages and traditions of Indian people.				
- Funds for Indian higher education centers with a simple emphasis, e.g., Center for Indian Law.				
- Funds provided by the Federal government to any institution of higher learning that is educating Indian students (similar to JOM funds).				
- Accreditation for Indian post-secondary institutions should be provided by an Indian designed and organized board.		X		

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT

Chapter 9: Off-Reservation Indians

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
"It is recommended that the delivery of services to off-reservation Indians should be consistent with the Federal obligation to all Indians. Because the problems of Indians in urban areas are unique in the sense they are physically away from tribal society, Congress should direct that the Executive deliver appropriate services through urban Indian centers.		X		
"The Executive Branch should assure financial support for Indian centers in urban areas. This could be expedited by: (1) turning over BIA Employment Assistance Offices and their contracting powers to the urban centers; and (2) removing Federal domestic assistance dollars from separate programs and targeting them to the urban centers.	X			
"The Executive Branch should place at the appropriate time administration of Federal funds targeted for urban Indians under an Urban Indian Office within the consolidated independent Indian agency.	X			
"Congress should direct the Executive Branch to administratively assume that urban Indian centers receive from established Federal domestic assistance programs and BIA Employment Assistance Programs appropriate funding of programs for off-reservation Indians in employment counseling, employment assistance, vocational skills development, an Indian employment agency, and all appropriate administration.		X		
"The Department of the Interior should direct the BIA to give its contract powers, as a matter of policy, in all urban functions, now and in the future, particularly employment placement, vocational training, and its appropriate administrative support, to urban Indian centers.			X	
"The Executive Branch should mandate that urban centers receive:				
1. Priority rather than secondary status for the receipt of JOM funds.				
2. Technical assistance in working with the regulations and expediting the funding process.				
3. Positive role in program and policy formation in the schools where there are Indian children, i.e., curriculum development, teaching and administrative staff hiring.				
4. Funding for administrative and program costs.	X			

Chapter 9: Off-Reservation Indians

Recommendations:	Action to be taken by:			
	Executive	Congress	Interior	Tribe
*Congress should direct the Executive to mandate that urban Indian centers will be funded to provide:				
1. A real estate clearinghouse to provide information on available living quarters;				
2. Consumer education programs in the areas of credit procedures, lease information, general advice on moving from the reservation to an urban area;				
3. Grants for initial moving costs, immediate support, rent supplements, housing improvements; and				
4. Reestablish the program formerly funded by BIA providing equity grants for down payments to relocatees who have lived in the city for more than two years to all urban Indians.	X	X		
*Congress should direct the Executive to mandate that appropriate action be taken to provide urban Indians with health care facilities by providing the urban Indian center with funds to:				
1. Serve as a clearinghouse for health care information;				
2. Let contracts for Indian health care;				
3. Establish educational programs;				
4. Establish health care programs on its premises;				
5. Serve as a liaison between Indian people and other health care institutions;				
6. Act as a monitor for funds designated for urban Indian health care; and				
7. Administer Indian health care programs.		X		
*The Executive Branch should conduct a detailed examination of assistance programs and need areas to determine which would be most expeditiously administered by tribal governments.	X			

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribes
"Congress should by joint resolution specifically repudiate H.C.R. 108 and the policies of assimilation and termination that it represents, and commit Federal Indian policy specifically to Indian self-determination.		X		
"Congress should by appropriate legislation provide for an administrative restoration process adhering to the following principles:				
1. Purpose of the Act would be to establish standards and procedures by which terminated Indian tribes may be restored to the status of sovereign, Federally-recognized Indian tribes; to restore to terminated Indian tribes and tribal members those Federal rights, privileges and services to which Federally-recognized Indian tribes and their members are entitled.				
2. The policy of termination was wrong and Congress expressly recognizes that fact. All reasonable steps should be taken to fully and quickly restore Federal recognition to terminated tribes, reestablish their land base, and restore tribal sovereignty. All federal monies expended pursuant to the Act should be "over and above existing appropriations for Indian affairs."				
3. Any terminated tribe may file a "petition for restoration" with the Secretary of the Interior. The Secretary shall grant the petition where: "the tribe is maintaining a tribal identity, and (2) restoration is favored by a majority of the tribal members actually voting in an election...." The Secretary "shall liberally construe the petition in favor of the tribe" and any "denials of petition shall be without prejudice to the tribe's right to refile subsequent petitions." If a petition is granted, the Secretary and the tribe shall negotiate a restoration plan, the tribe will be eligible for all Federal services and benefits, and all rights of the tribe under "Federal treaty, statute, Executive order, agreement, or otherwise shall be reinstated."				
4. The restoration plan shall provide for election of "interim tribal council", adoption of a tribal constitution and by-laws, revision of the tribal roll, establishment of reservation land in trust, and other specifics. Congress retains the power to approve or disapprove any restoration plan.				
5. Nothing in the Act alters preexisting rights or obligations or affects the status of any Federally-recognized tribe.				
6. The Act shall be construed in favor of Indians; the Secretary of Interior shall cooperate with tribes seeking restoration; his action is subject to review by a Federal court; and other specifics.				
7. Authorization for whatever appropriations are necessary to implement the Act.				
8. The Secretary of Interior is authorized to adopt regulations necessary for carrying out the Act.		X		

Chapter 10: Terminated Tribes and Chapter 11: Unrecognized Indians

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
"Congress as an interim measure, recognizing the hardships caused by terminations, should by legislation specifically extend appropriate Federal Indian services to "terminated" Indians.				
Chapter 11: Unrecognized Indians				
"To dispel administrative hesitations and to clarify the intention of Congress, Congress should adopt in a concurrent resolution a statement of policy affirming its intention to recognize all Indian tribes as eligible for the benefits and protections of general Indian legislation and Indian policy; and directing the Executive Branch to serve all Indian tribes. The declaration of policy could be adopted along with Task Force Nine's "Congressional Statement of Findings and Declarations of Policy". In pertinent part, it reads:				
The Congress recognizes that there are numerous tribes and groups of Indian people who have been denied Federal recognition for a lack of a treaty relationship with the United States or lack of other laws. The Congress recognizes that the continued refusal by the Federal authorities to accord Federal recognition to these tribal entities or communities of Indian people is not premised on grounds of equity or justice but is premised on the lack of adequate appropriation of funds to properly serve those tribes and people who are already Federally recognized and because of the lack of any clear legislative guidelines to facilitate recognition. The Congress herewith declares its commitment to provide a mechanism for recognition of those Indian tribes or community groups who have previously been unrecognized and to couple this commitment with a commitment to appropriate such additional funds in the future as are necessary to provide services to these newly recognized entities without diminishment of services to those tribes already recognized.		X		
"To insure that the above declaration is carried out, Congress, by legislation, should create a special office, for a specific period of time, such as 10 years, independent from the present Bureau of Indian Affairs, entrusted with the responsibility of affirming tribes' relationships with the Federal Government. The Office should have a dual function: (1) Affirming the Federal relationship with the petitioning tribes; and (2) negotiating the particular aspects of that relationship within the context of general Indian legislation and Indian law, but with the flexibility that meeting each tribe's specific needs requires. The first function should include the following procedures:				

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT

Chapter 11: Unrecognized Indians

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
- The Office should contact all known so-called unrecognized tribes and inform them of their rights to establish a formal relationship with the Federal Government.				
- Technical assistance should be provided for tribes, ensuring that they understand the Office's procedures, and that they acquire legal assistance and professional assistance when they desire it for presenting their claims to this Office. With the assistance of the special office, or with the assistance of persons designated by the tribe but paid by the office, the tribes should submit petitions for recognition to the office.				
- As soon as possible, but no later than one year after receipt of a tribe's petition, the office must decide on a group's eligibility as a tribe for Federal-Indian programs and services.				
- That decision must be decided on the definitional factors enumerated below, factors which are intended to identify any group which has its roots in the general historical circumstances all aboriginal peoples on this continent have shared.				
- At the end of one year, through appropriate hearings and investigation, the office shall justify any rejection of a group's claim to tribal status with a written report documenting the group's failure to establish its inclusion in any one of the seven definitional factors enumerated below.				
- The group may appeal the office's ruling to a three judge Federal District Court, as outlined below.				
The second function of the office, to negotiate the tribe's particular status within the Federal-tribal system, is intended to place these newly recognized tribes on a firm footing so that their claims are clear, their rights are affirmed, their special needs are assessed, and so that actions may be taken immediately to improve their health, educational, and economic conditions. This procedure will acknowledge these tribes' different priorities, and will assist in expediting actions on tribal priorities. It is not intended to be a process for limiting tribes' eligibility for any services or constraining the powers, rights, and special privileges of these tribes. The office will be directed to exercise good faith and trust in delineating the tribes' rights to services and protection of laws governing Indian affairs.		X		
°Congress should direct this office that for the purposes of fulfilling the Federal Government's obligation for the protection and well-being of American Indian tribes and aboriginal groups, and their resources, and for the identification of those groups, the following procedure will be adopted:				

AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT

Chapter 11: Unrecognized Indians

Recommendations:

	Action to be taken by:			
	Executive	Congress	Interior	Tribe
1. A tribe or group, or community claiming to be Indian or aboriginal to the U.S. shall be recognized unless the United States, acting through the special office created by Congress, can establish through hearings and investigations that the group does not meet any one of the following definitional factors set forth below:				
a. The group exhibits evidence of historic continuance as an Indian tribal group from the time of European contact or from a time predating European contact. "Historic continuance" shall include any subsequent fragmentation or division of a specific tribe or group, and any confederation or amalgamation of specific tribes, band, or group and subdivisions.				
b. The Indian group has had treaty relations with the United States, individual states, or pre-existing colonial and/or territorial governments. "Treaty relations" shall include any formal relationship based on a government's acknowledgement of the Indian group's separate or distinct status.				
c. The group has been denominated an Indian tribe or designated as "Indian" by an Act of Congress or Executive Order of state governments which provided for, or otherwise affected or identified the governmental structure, jurisdiction, or property of the tribal groups in a special or unique relationship to the state government.				
d. The Indian group has held collective rights in tribal lands or funds, whether or not it was expressly designated a tribe. "Lands" shall include lands reserved for the group's exclusive use, occupancy or related general purposes which have been acquired by the group through Act of Congress, Executive or administrative action, or through such related acts by pre-existing colonial and/or territorial governments, or by state government, or through the purchase of such lands by the group. "Funds" shall include money designated for the group's exclusive use, possession or relatsd general purposes by Act of Congress, Executive or administrative action, or by such related acts of pre-existing colonial and/or territorial governments, or by state governments, or by judgments awards of the U.S. Court of Claims, U.S. Indian Claims Commission, Federal or State Courts.				
e. The group has been treated as Indian by other Indian tribes or groups. Such treatment can be evidenced by relationships established for purposes connected with crafts, sports, political affairs, social affairs, economic relations, or any inter-tribal activity.				
f. The Indian group has expressed political authority over its members through a tribal council or other such governmental structures which the Indian group has determined and defined as its own form of government.				

Recommendations:	Action to be taken by			
	Executive	Congress	Interior	Tribe
g. The group has been officially designated as an Indian tribe, group, or community by the Federal Government or by a state government, county (or parish) government, township, or local municipality.				
2. If the United States finds that the claimants do not meet any of these definitional factors, such a determination shall be made in writing to the claimants and the decision shall be reviewable by a three judge Federal District Court with the burden remaining upon the United States to establish that the claimants are not an Indian tribal community.				
3. If the United States affirms through the special office that a claimant tribe or groups meets any one of the standards set forth above, it shall promptly begin negotiations with the tribe or group for purposes of extending all benefits and protections of the laws of the United States directed toward Indians to the extent agreed to by the tribe or group. The agencies designated to provide for the negotiation of protection and benefits shall submit to the Congress such additional requests for appropriations as are necessary to fulfill these obligations.				
4. Technical assistance shall be provided by the special office or by the prime agent of the trust, or by both, so that newly recognized tribes can determine their membership rolls. The process of determining the rolls will entail public notices, the formation of tribal enrollment committees to hear individuals' claims, and written statements of enrollment verification which must be recorded in duplicate by the prime grant of the trust. Tribes must set their own membership standards. This enrollment procedure may begin after the special office informs the group of its recognized tribal status, and may continue after the special office is terminated, although the process should be expedited by the office as fast as possible.		X		

Chapter 11: Unrecognized Indians

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
"Congress should appropriate specific set-aside monies for American Indian community governments and organizations currently not receiving Bureau of Indian Affairs services and programs to be utilized for program development, planning and community-based operations. These funds should be in addition to the usual appropriations for the Office of Native American Programs (ONAP) within the Department of Health, Education and Welfare. Such funds should serve as an interim measure while other Federal departments and agencies are implementing service to all Indians. (It should be noted that there should be a specific set-aside since less than 11% of the ONAP grantees during FY 1975 were terminated or "non-federally recognized" Indian tribes and organizations.)		X		
"To insure the success of such Congressional directives and specific set-aside monies, the Congress should appropriate additional funds for distribution through the Federal departments and agencies on a grantee and non-grantee basis, specifically designed to provide contractual training and technical assistance for American Indian communities at state-wide and regional levels. Further, to provide for the continuance of the self-determination without termination concepts surrounding the Indian Self-Determination Act passed in the 93rd Congress, individual American Indian community governments and organizations and combinations thereof within a state or regional area should be encouraged to perform the contractual negotiations with individual contractors, in a cooperative effort with the respective Federal agency. Additionally, to provide the necessary support for the development of non-BIA programs and services, and for the cooperative efforts between Federal agencies and Indian communities in policy-making and policy-formation, the Congress should stipulate and encourage the utilization and formation of the Indian Task Force concept on the Federal Regional Council level. (As such, the presence of an Indian Task Force at the New England Federal Regional Council has proven over the past few years to be highly effective in the areas mentioned above.)		X		

Chapter 11: Unrecognized Indians

Recommendations:	Action to be taken by			
	Executive	Congress	Interior	Tribe
"For the purposes of providing effective utilization and improvement of human resources within American Indian communities and for the successful continuance and rational development of community governments and organizations not currently receiving Bureau of Indian Affairs programs and services, the Congress should establish a national Indian scholarship and fellowship program specifically designed to promote the educational development and training of the current Indian leadership within such communities and those young Indian adults who exhibit future leadership qualities and activities.		X		
"Congress should direct the General Accounting Office to immediately proceed with full and complete investigations of the grant award procedures involving: the Office of Indian Education - Title IV, Parts A, B, and C; the Office of Native American Programs - Tribe and Urban; and the Office of Indian Manpower Programs - Sec. 302 of the Comprehensive Employment and Training Act.		X		
"The Congress should extend the statute of limitations as provided in 28 U.S.C. §2415(b) so as to provide that actions which accrued on the date of enactment of such Act in accordance with subsection (g) thereof may be brought within twenty-five years after the right of action accrues, so as to provide time for Indian tribes, bands or groups who have not had access to legal services, effective legal research and effective historical research to seek redress through actions brought by the United States on their behalf under the Act.		X		
"The Census Bureau should be directed to implement the recommendations suggested by Task Force No. 10 on pages 1703-1704 of its final report, so that so-called unrecognized Indians will be identified in the 1980 Census.		X		

Chapter 12: Special Circumstances - Alaska

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
*Congress should enact legislation prescribing the order of preference in which applications for benefits under federal laws and programs will be received from the several kinds of Alaska Native organizations qualified as applicants.		X		
*Congress should enact legislation confirming that the Tlingit & Haida Indians constitute a single tribal entity of which the Central Council is the general and supreme governing body.		X		
*Congress should enact legislation confirming that the authority of the Secretary of the Interior to reserve easements on lands to be conveyed to Native corporations under the Settlement Act is strictly limited to definitely defined easements across such lands and at periodic points along the courses of navigable waterways that are necessary to discharge international treaty obligations and to provide access to remaining public lands. Specifically, Congress should make clear that the Secretary is without authority to reserve any lineal easements along shorelines, any non-specific, floating or blanket easements, or any easements to provide others with any rights to enter upon any lands (including water beds) to be conveyed to the Native corporations for any purpose other than to cross such lands by defined routes to reach remaining public lands.		X		
*Congress should enact legislation confirming that the Secretary of the Interior is not required, prior to conveying lands to Natives and Native corporations under the Settlement Act, to prepare impact statements pursuant to the National Environmental Policy Act.		X		
*Congress should enact legislation requiring the Secretary to convey all lands and estates and interests in lands that the Natives and the Native corporations are entitled to receive under the Settlement Act no later than December 31, 1978.		X		

Recommendations:	Action to be taken by.			
	Executive	Congress	Interior	Tribe
*Congress should increase its oversight relative to the carrying out of the Settlement Act in general, and relative to the conveying of lands to the Native corporations in particular. Congress should require the Secretary to report to it not less frequently than once every three months until it is satisfied that all lands to which the Native corporations are entitled under the Act have been conveyed.		X		
*Congress should appropriate funds to provide the advance payments into the Alaska Native Fund that were authorized by Section 407(a) of the Act of November 16, 1973 (87 Stat. 591) to ameliorate the adverse impact on the Alaska Natives of delay in construction of the Trans-Alaska Pipeline.		X		
*Congress should take no action in implementing the provisions of Sec. 17(d) of the Settlement Act, or otherwise, that would have the effect of diminishing or impairing the ability of Alaska Natives to make use of any lands or of the products thereof (including fish and animals), for subsistence purposes, or that would have the effect of restricting the uses that Native corporations might make of, or the activities they might conduct on, any land conveyed to them under the Settlement Act.	No Action			
*Congress should enact legislation permanently exempting lands conveyed to Native corporations under the Settlement Act from state and local taxation, so long as they are not developed or leased, and during periods such lands are not productive of income, whether or not they were previously developed or leased.		X		
*Not later than during the 1st session of the 101st Congress, or 1989, Congress should undertake a comprehensive examination of the condition of the Alaska Natives and of the results of the Settlement Act, with a view, particularly, to determining whether the tax exemptions and the period of inalienability of stock currently provided by the Settlement Act should be expanded or extended.		X		
*Congress should conduct hearings to examine the problems that have arisen in interpreting and effectuating Section 7(i) of the Settlement Act and to determine whether further legislation is desirable.		X		

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
"It is the conclusion of the American Indian Policy Review Commission that the findings and recommendations applicable to Indians generally are part of the Federal Indian policy and should be equally applicable to the Indian tribes and people of Oklahoma without distinction and that no tribe or community of Indian people should be denied the benefits or advantages of Federal Indian law or policy solely because they are found within the boundaries of the State of Oklahoma.	X	X		
"Congress should provide by appropriate legislation for the repeal of laws which presently restrict or remove from the tribes of Oklahoma the full measure of jurisdictional and governmental powers enjoyed by those tribes prior to the establishment or removed in contemplation of the establishment, of the State of Oklahoma to the extent that such laws restrict or remove such powers. To the extent that the State of Oklahoma lawfully exercises jurisdiction of Indians or Indian lands at present that jurisdiction should remain as concurrent with tribal powers.				
"Congress should provide by appropriate legislation for the reassumption of federal jurisdiction and tribal jurisdiction to the exclusion of state jurisdiction adhering to the following principles:				
a. Reassumption of federal jurisdiction and tribal jurisdiction to the exclusion of state jurisdiction shall be to the same extent as are found on reservations in states not presently exercising Public Law 83-280 jurisdiction or other jurisdiction pursuant to special jurisdictional statutes for that state.				
b. The extent and limitations, including any timetables for partial or total assumption of jurisdiction shall be at the option of the tribe which shall prepare a plan for same.				
c. There should be direct financial assistance made available to the tribe or inter-tribal group which should include a Secretarial designation necessary to qualify for LEAA discretionary funds. LEAA should also be amended and directed to make funds available for planning and preparation prior to assuming law and order functions.				

Recommendations:	Action to be taken by. Executive	Congress	Interior	Tribe
d. The plan presented by the tribe or inter-tribal group should reflect consultation with state and local governments concerning transition activities and to reflect cooperation or lack thereof. State and local governments shall have no veto over the plan.				
e. The plan shall be presented to the Secretary who shall:				
1. Act within 120 days to approve or disapprove the plan, and failure to act within that time shall be considered approval;				
2. Base disapproval of the plan solely upon the basis of the inadequacy of the plan giving specific reasons and providing technical assistance and resources necessary to meet the inadequacies where possible.				
3. Within 120 days after the passage of the Act, the Secretary shall draft standards for determining the adequacy or inadequacy of a tribal plan, which standards shall be sent to the individual tribes of Oklahoma who shall have not less than 30 days to prepare comments on the standards proposed by the Secretary. The Secretary shall submit to Congress within 200 days after passage of the Act the proposed standards with tribal comments.				
f. Rejection of a tribal plan by the Secretary shall be appealable to a three judge district court in the District of Columbia, and the Department of the Interior shall pay all reasonable attorney's fees and costs of the tribe or inter-tribal group as determined by the federal court except where such appeal is deemed to be frivolous.		X		

California.

Recommendations made through this Report are applicable to the Indian tribes and Indian people of California. Recommendations made in other chapters which have particular pertinence to California are as follows:

1. Special financial needs of small tribes. (Chpt. 5, Part B.)
2. Disparity in budget allocation. (Chpt. 6, Parts IV & V.)
3. Terminated Indians. (Chpt. 10, All Recommendations.)
4. Public Law 280. (Chpt. 5, Part C.)
5. Off-Reservation Indians. (Chpt. 9, All Recommendations.)

Chapter 13: General

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
A. National Awareness Concerning Indian Issues.				
"Congress should by appropriate legislation require mandatory training concerning Indian history, legal status and cultures of all government employees administering any Federal program or state or local program funded in whole or in part by Federal funds.		X		
"Congress should by appropriate legislation appropriate funds to assist school systems in developing education programs in Indian affairs. Such funds should be made available for:				
1. An evaluation of the history and government curricula utilized by elementary, secondary and higher educational institutions.				
2. The identification of gaps and inaccuracies in such curricula.				
3. The provision of model curricula which accurately reflects Indian history, tribal status and Indian culture. In making this recommendation, it is not the intent of the Commission that such program should constitute an "official history". Rather, the intent is merely to encourage scholarly work to fill a recognized void in current educational programs.		X		
B. Alternative Elective Bodies for Representing National Indian Interests.				
"No Congressional action is appropriate at this time on any of the current proposals for multi-tribal input into the national political arena.	No Action			
C. Consolidation, Revision and Codification of Federal Indian Law.				
"Congress should refer the entire report of the Commission Task Force on Consolidation, Revision and Codification of Federal Indian law to the appropriate Committee or Committees to bring the work to completion:				
1. Optimally, referral should be to the appropriate Committees of the House and Senate or the Select Committees in each House with sufficient time and funds to complete the task.				
2. The Committee(s)' work should be conducted through a process of consultation with Indian people.		X		

Chapter 13: General

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
D. Creation of Native American Studies Division in the Library of Congress.				
Congress should authorize the Library of Congress and, if necessary, appropriate funds to:				
1. Create a Native American Studies Division in the Library with a central reference area and a research support staff of Native American specialists. The content of such a collection should be determined by the Library staff, but it should consist of at least the basic reference works most frequently used in Indian affairs research by both scholars and those active in public affairs.				
2. The Library should compile for publication a collection of Native American studies resources consisting of: A bibliography of basic reference tools for research in all aspects of Indian affairs, indexed by subject matter; a bibliography of bibliographies relating to Indian affairs; and a directory of research sources for Native American studies, including but not limited to specialized collections such as those in the Department of the Interior Library, the National Indian Law Library in Boulder, Colorado, and the Newberry Library in Chicago, Illinois. Such a research guide should contain materials located in the Library of Congress or other depository libraries accessible to the public and should be made available for sale to the public and updated periodically.				
3. The Selected Dissemination of Information System (SDI) maintained by the Congressional Research Service of the Library of Congress should expand its coverage of publications containing Native American articles and should be made available for sale to the public.				
4. In response to these recommendations, the Librarian of Congress should be directed to report to the Congress the estimated cost of these changes and projects and the estimated time for their completion. In addition, the Librarian should be directed to make a feasibility study to determine the requirements for undertaking a definitive retrospective bibliography of all Native American research materials, indexed by subject matter.		X		

Separate Dissenting Views of Congressman Lloyd Meeds - Minority Report

Recommendations:	Action to be taken by:			
	Executive	Congress	Interior	Tribe
*I recommend that Congress enact comprehensive legislation which clearly defines the nature and scope of tribal self-government and makes it clear that the governmental powers granted tribes by the Congress are limited to the government of members and their internal affairs, and are not general governmental powers.		X		
*I recommend that Congress enact legislation directly prohibiting Indian courts from exercising criminal jurisdiction over any person, whether Indian or non-Indian, who is not a member of the Indian tribe which operates the court in question.		X		
*I further recommend that Congress enact legislation prohibiting Indian courts from exercising civil jurisdiction over any person, whether Indian or non-Indian, who is not a member of the tribe which operates the court in question, unless the non-Indian defendant expressly and voluntarily submits to the jurisdiction of the tribal court after the claim arises upon which suit is brought.		X		
*No infringement of tribal self-government should be found unless the non-Indian activities over which state jurisdiction is sought are part of a complex of activities which are substantially Indian in character.	X	X		
*Immunity-motivated conduct of non-Indians should not be immune from state law.	X	X		
*In the absence of ultimate authority over Indian land use planning lying with federal officials, the fairest system would be to place final authority in state planning authorities in which Indians would participate equally with other affected citizens.		X		
*The United States should tax all persons on Indian reservations the same as it does persons elsewhere. States should tax non-Indians and their property. Tribes should be able to tax members and their property.		X		

Separate Dissenting Views of Congressman Lloyd Meeds - Minority Report

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
"I recommend that Congress enact legislation providing that states shall have the same power to levy taxes, the legal incidence of which falls upon non-Indian activities or property, on Indian reservations as they have off Indian reservations. The only exceptions to this blanket recognition of state taxing power over non-Indians should be in the rare situations where comprehensive federal regulation of specific subject matters would independently preempt state regulation, including taxation, of non-Indian activities on Indian reservations.		X		
"I also recommend that Congress expressly proscribe taxation of non-members or property of non-members by Indian tribes.		X		
"Congress should enact legislation allowing civil jurisdiction in state courts against Indian defendants in all cases where there would be jurisdiction in the state courts were it not for the Indian status of the defendant and where the tribal government of the Indian defendant does not provide a judicial forum to hear the claims against the Indian defendant. Tribal interests in regulating their own members could be protected by providing that tribal rules of decision must be given appropriate weight in the state court proceedings. In the alternative, Congress should bar actions by Indians against non-Indians in any event for claims arising on reservations where tribes have not provided forums for similar actions by non-Indians against Indians.		X		
"Congress should undertake to define "Indian country" for the various purposes for which the term is used.		X		
"Congress should undertake a comprehensive reexamination of Indian jurisdiction in light of federal Indian policy and legitimate state interests and then legislate clear and purposeful divisions of power which will allow tribes and the states to generate more good government and less litigation.		X		
"Congress should adopt legislation which extinguishes for all time all tribal or Indian claims to interests in real property, possessory or otherwise, grounded in aboriginal possession alone. To ensure that such legislation would extinguish claims such as the Passamaquoddy's now asserted but not yet reduced to judgment, I would resolve all doubt by recommending to the Congress the enactment of a statute of limita-				

Recommendations:	Action to be taken by: Executive	Congress	Interior	Tribe
tions that all such claims not yet reduced to judgment shall be forever barred.				
"I recommend to the Congress the creation of a legislative framework by which Indians can be defined and tribes can be defined for purposes of federal relations with them. I would also recommend a limitations period, such that after a reasonable date certain, no person or entity would be permitted to assert that it is an Indian or a tribe for federal purposes.		X		
"I recommend to the Congress legislation which, at the least, grants to all Indian tribes the power to waive their own immunity.		X		
"I would recommend, therefore, a torts claim act, similar to the Federal Torts Claim Act, so that Indian tribes would not be above the law for their tortious conduct.		X		
"I recommend to the Congress appropriate legislation which makes it clear that Indian tribes exercising powers of self-government not only have no authority over non-Indians, but also have no governmental or regulatory authority outside of their reservation boundaries over their own members.		X		

CHAPTER 4: FEDERAL-INDIAN TRUST RELATIONS

This chapter of the report attempts to give clarity and meaning to the often perplexing concept known as the "trust responsibility". The Commission recommends that the trust responsibility include a legally binding duty upon the United States to protect and enhance Indian trust resources and tribal self-government. The duty would include providing services required to protect and enhance trust resources and tribal self-government as well as social and economic programs necessary to raise the standard of living and social well-being of Indian people whether on or off the reservation.

While the recommendation may reflect what the scope of the trust responsibility should be, the legal analysis provided in the narrative is inadequate to support some of the elements or components of this recommendation. Specifically, it is inaccurate to say that there is considerable legal authority for the proposition that the United States trust duty is much broader than protecting lands, natural resources, and trust assets. Legal opinions on the subject have only dealt with the trust obligation in relation to these three areas. This is not to say that the trust responsibility does not include a duty to protect tribal self-government and provide services, it merely points out that these issues have not yet been litigated.

The Commission further states that the trust obligation extends not only to tribes as governing units, but also to their members wherever they may be. Again, this blanket proposition cannot be supported by case law.

While this recommendation may be desired, it is extremely unlikely that Congress would accept such a far-reaching interpretation of the trust responsibility.

Other recommendations in this section call for the creation of an Office of Trust Rights Protection independent of the Department of the Interior and the Department of Justice, and a Congressional policy that treaty and non-treaty rights shall not be abrogated except under extraordinary circumstances where a compelling national interest is at stake and where Congress first seeks to obtain the consent of the affected tribe.

CHAPTER 5: TRIBAL GOVERNMENT

The first and second sections of this chapter (Historical Overview and Sources of Tribal Power) contain an excellent historical and legal overview of the origins and development of the concept of tribal sovereignty and the inherent right of tribal self-government. No specific recommendations are contained in either of these two sections other than a recommendation that Congress declare as a matter of policy that tribal governments should be developed into fully functioning governments.

In light of the Ninth Circuit's opinion in Oliphant v. Schlie, 544 F. 2d 1007 (9th cir. 1976), which recognized the jurisdiction of the Suquamish tribe over a non-Indian who assaulted a tribal police officer on tribal land within the confines of the Port Madison Indian Reservation, the Commission declined to recommend Congressional action with regard to the issue of tribal jurisdiction over non-Indians. This is clearly a sound policy decision on the part of the Commission. With a number of favorable court decisions regarding tribal jurisdiction, it would be premature and unwise to recommend Congressional involvement in such key issues.

Political Relationship and the Indian Reorganization Act.

This section of the report documents quite well the almost unlimited authority the Secretary of the Interior may now exercise over tribal government actions pursuant to: Sections 2, 9, and 81 of Title 25 United States Code; Section 16 of the Indian Reorganization Act; the general trust responsibility; the guardian-ward relationship; and the power of review and approval of tribal ordinances vested in the Secretary of the Interior by tribes.

The recommendations are primarily designed to narrow or limit the authority of the Secretary of the Interior over tribal government actions to only those matters directly related to protecting trust assets and resources. They are designed to prevent the Secretary from unilaterally withdrawing recognition of tribal constitutions, rejecting tribal ordinances unrelated to protecting trust assets or natural resources, and generally meddling in the day to day affairs of tribal governments. They further provide for written findings and an opportunity for a hearing when tribal ordinances or actions are disapproved by the Secretary. Tribes would also be authorized to override a Secretarial disapproval.

An exception is taken with the recommendation that notwithstanding any provisions in existing tribal constitutions vesting the Secretary with review and approval authority over tribal ordinances, the Secretary's authority is limited to only those matters directly related to trust assets and natural resources protection. Tribes presently have the authority to amend their tribal constitutions limiting Secretarial review of tribal ordinances and resolutions. Some tribes may desire their review and approval provisions and it therefore should be a tribal decision as to the scope of Secretarial review they desire.

The 1968 Civil Rights Act/Full Faith and Credit.

The first recommendation of this section addresses perhaps the most critical issue to surface as a result of the Indian Civil Rights Act. Was the Act intended as a general waiver of tribal sovereign immunity? The decision in Loncassion v. Leekity, 334 F. Supp. 370 (D.N.M., 1971) authorizing a money judgment against the Zuni Pueblo sets a dangerous precedent which could potentially bankrupt Indian tribes. The financial stability of tribal governments is placed in serious jeopardy if the already limited tribal coffers are opened to satisfy money judgments against the tribes. It is

important that Congress clarify the Indian Civil Rights Act so that the sovereign immunity of tribes is not waived.

It is further recommended that tribal officials be immune from money judgments when they are working within the scope of their duty. This is inconsistent with the Commission finding that tribal officials should be subject to the same judicial restraints as are state officials. A state law enforcement officer who beats up an individual while placing him under arrest is not immune from suit for money damages. Should a tribal officer who engages in the same conduct be immune?

The Commission also recommends an amendment to the Indian Civil Rights Act which would provide for limited appeals to the United States Courts of Appeal. The purpose of this amendment is to make tribal courts courts of record and avoid relitigating issues anew in district court, which have already been litigated in tribal court. Though clearly tribal courts should become courts of record, it is impractical to provide for direct appeals to a circuit court. They are few in number and are not geared to handle a large number of automatic appeals. The recommendation should provide for appeals to the district courts.

The recommendation also authorizes federal court review of tribal court decisions where a showing is made of a denial of due process or denial of equal protection and/or where the amount in controversy exceeds $50,000.00. Again, this is a more restrictive review than exists for state court judgments. Is there a reason for a more limited review? The $50,000 is clearly designed to cut off a number of actions which could otherwise be brought under the Act, but it would appear to be excessive.

With regard to full faith and credit, the Commission recommend that Section 1738 of Title 28, U. S. Code, be amended to include Indian tribes. The purpose of this amendment is to require states to recognize tribal laws and court orders. There are two cases which have interpreted this section as including Indian tribes, therefore, it should be considered a clarifying amendment so that if Congress takes no action on this recommendation, there will be no inference that tribes are not included within the coverage of this provision.

Status of Tribal Government in the Federal Domestic Assistance Program Delivery System.

The recommendations found in this section are designed to insure that Indian tribal governments are not excluded from direct participation in the more than 1,030 federal programs now available to state and local governments. The narrative also discusses the potential of the Joint Funding Simplification Act for resolving many of the problems tribal governments now face in applying for and operating federal domestic assistance programs. This Act would allow tribes flexibility in developing long-range plans, would enhance the opportunities for the realization of economic self-sufficiency, and would make the tribes less dependent on BIA programs where they so choose.

Funding and Public Law 93-638.

Task Force findings indicated that many tribal governments do not have adequate tribal income to support their basic operations. Often tribes are unable to salary their tribal chairman, council, or employ a business manager or tribal attorney. Recommendations call for a comprehensive needs assessment of tribal governments, more discretion in the use of Self-Determination grants, and assurances that tribes will have access to competent independent legal counsel.

Public Law 83-280.

The Commission recommends that retrocession, either complete or partial, of state criminal and civil jurisdiction occur at tribal option. Tribes in P.L. 280 states would have the responsibility for developing a plan for the reassumption of tribal jurisdiction which would have to be approved by the Secretary of the Interior. Funds would be made available during the planning, preparation, and transition period.

There is no question that retrocession has almost unanimous support from the Indian tribes. One cautionary note though is in order. The cost of assuming criminal and civil jurisdiction responsibilities is no small amount. Although tribes which are currently exercising such jurisdiction receive federal assistance to defray some of these costs, most, if not all tribes, must supplement these funds with tribal revenues. In many situations, the tribal share is far greater than the amounts supplied by the BIA or LEAA. While Congress may be amenable to a retrocession bill, it is not clear they will appropriate sufficient funds to cover the cost of tribal reassumption of jurisdiction. It is important that tribes be aware of the cost of retrocession.

Tribal Justice Systems.

As discussed above, the cost of operating a tribal justice system and law and order responsibilities can be substantial. This section of the report focuses on the financial needs of tribal justice systems and recommends that significant additional monies be appropriated for their development as well as for the development of appellate court systems. Again, the need for additional funds is critical to the successful operations of tribal courts. If retrocession is to become a reality and if tribal courts are ever to become courts of record as envisioned by the Commission and Indian tribes, these recommendations are essential.

Federal Justice Systems.

This section contains a discussion of the Major Crimes Act, the General Crimes Act, and the Assimilative Crimes Act. Recommendations merely call for Congressional oversight hearings to ascertain the need for legislation.

CHAPTER 6 - FEDERAL ADMINISTRATION

The federal administration of Indian affairs is the reality test of Federal-Indian policy. It encompasses all three branches of the Federal government, and is probably the most important determinant of the future of the Indian people. It is therefore, one of the most significant aspects of Indian affairs to be investigated.

The major shortcoming of the Commission's chapter on Federal administration is the pervasive lack of documentation throughout the chapter. Statements of fact supporting the need for recommended changes are unsubstantiated, footnotes are indicated, but not supplied. (Section VI. Indian Preference) Gross misstatements of fact such as the allegation that the Bureau of Indian Affairs would now like to add 1400 federal employees to train Indians (provide technical assistance in the implementation of P.L. 93-638) undermine the credibility of the report. (The Bureau intends to add 48 employees to its central and area office staffs to implement self-determination.) In other areas, vague references are made to serious transgressions in the administration of Indian affairs with no documentation to support the validity of statements made. There are without question numerous actions promulgated on a daily basis which undermine the intent of Federal-Indian policy and result in inefficient and ineffective federal administration. The Commission would have done well to introduce evidence of these facts as substantiated in the testimony taken in Commission hearings-- such evidence appears in but a few sections of this chapter.

The major recommendation of this chapter calls for the creation of an independent Indian agency and the transfer of programs now operated by the Bureau of Indian Affairs, the Department of the Interior, and the Department of Health, Education and Welfare. The new agency would have an Office of Trusts Rights Protection (as outlined in Chapter 4 of the report) which would perform the legal functions now carried out through the Solicitor's Office of the Department of the Interior and the Departmentof Justice. This recommendation is aimed at removing the conflict of interest both within the Department of the Interior as well as the conflict of interest between the Bureaus of the Department of the Interior and the Department of Justice. Proposed interim measures or alternative recommendations to the creation of an independent Indian agency, would transfer the functions now performed by the Solicitor's office of the Department of the Interior to the Bureau of Indian Affairs under a

proposed General Counsel's office. This measure would not remove the conflict of interest involving the Justice Department, but would remove the Associate Solicitor for Indian Affairs office out from under the authority of the Solicitor's office of the Department of the Interior, and assumedly, Indians would have greater access to legal representation by the federal government. Further, the Commission recommends that to resolve the conflict in the legal offices at the Field and Regional levels, separate Indian desks should be established within each of these offices under the direct line authority of the General Counsel of the BIA. This recommendation leads to some confusion when evaluated in conjunction with the preceding recommendation. If the functions of the Associate Solicitor for Indian Affairs office are to be transferred to a general counsel's office in the Bureau of Indian Affairs, it would seem to follow logically that the functions of the regional and field offices relative to Indian affairs would also be transferred. However, Commission recommendations have the functions of the central office being transferred to the Bureau of Indian Affairs, while those employed at regional and field offices would answer both to the general counsel of the BIA and the Solicitor of the Department of Interior. This recommendation simply does not make sense.

In similar fashion, the recommendation for the creation of an independent Indian agency contains certain provisions which are equally unclear. For instance, the Commission report states, "The legislation establishing this department or agency would contain certain elements as follows: a. Provisions for tribal and organizational freedom." Certainly the freedom of tribes and Indian organizations is a desired goal of most Indian people, but it is unclear what the Commission wishes to accomplish by this provision -- namely, freedom from what? A second provision proposes a program and budgeting system in the new Indian agency which would be independent of the Office of Management and Budget (OMB). Given that the federal government must be accountable to those citizens for whom it is performing governmental functions -- including fiscal accountability, and given that no other agency or department of the federal government is independent of the fiscal accountability to or the monitoring functions performed by the Office of Management and Budget, this provision seems at least unrealistic. Moreover, the experience of OMB in accounting and budgeting processes, as well as the considerable influence wielded by OMB in the appropriations process and allocation of the federal budget would seem to be valuable assets to be tapped upon by a new agency. Contrary to the Commission recommendation, the degree of cooperation which comes

to exist between OMB and a new Indian agency might prove to be a determinant of the success of the new agency in maintaining its status in competition for funding with other federal agencies, as well as influencing the degree of co-operation to which Federal-Indian policy is implemented across all agencies of the federal government. A third provision of the recommendation creating a new Indian agency calls for a substantial decrease in administrative costs. This raises an interesting point which the Commission discusses in only cursory fashion -- that is the staffing of an independent Indian agency. If the new agency were to assume the functions recommended by the Commission, the Indian Agency would be performing services far in excess of those now provided by the Bureau of Indian Affairs. The Bureau now employs 18,000 people in its administration of Indian affairs. With increased functions, one might assume that there may be a correlative increase in staff, and an associated increase in administrative costs.

In the interim, the Commission recommends a reorganization of the Bureau of Indian Affairs and the creation of a Management Improvement Review Office to facilitate this process. Among its other duties, the Commission recommends that this office be responsible for the preparation of "mission statements, position descriptions and a list of eligible candidates for each key office position of the new BIA organization". The recommendation does not mention however, tribal input into this process, nor is there any indication (based on the lack of tribal input) that there will be any change in personnel now in the Bureau, later in the new agency. Since present Bureau staffing is a consistent criticism of the report, it is curious that the Commission recommends no change in the present administrative structure which would draw tribes and Indian organizations into the process of nominating eligible Indian candidates for key positions in the Bureau of Indian Affairs.

The creation of an independent Indian agency will do little to change the problems which exist in the present administration of Indian Affairs if the input of tribes and Indian organizations is not given the highest priority consistent with the spirit of self-determination.

A large portion of the chapter discusses the delivery systems through which federal programs benefitting Indians are delivered, and recommendations call for the provision of direct funding to tribal governments by amendment of federal domestic assistance program legislation and regulations.

The important point is made here that Indians are not receiving the services to which they are entitled either as citizens of the United States or as Indian people, thereby refuting the position of the minority report which alleges that Indian people enjoy greater federal funding support than their non-Indian counterparts. Such is clearly not the case.

Another section addresses the Indian Reorganization Act and the Indian Self-Determination and Educational Assistance Act requirements for Indian preference in hiring and contracting as it affects the Bureau of Indian Affairs, Indian Health Service and other federal agencies providing services to Indian people. Recommendations call for the establishment of an Indian Career Service (as provided for in the Indian Reorganization Act but never accomplished) which would parallel and obviate the application of Civil Service standards, and replace such standards with meaningful standards relevant to Indian experience, cultural environment and life knowledge and skills.

Finally, the creation of an independent Indian agency requires the careful consideration of all tribes and Indian organizations particularly with respect to programs now administered by other federal agencies which the Commission has recommended would be transferred to the Indian agency at an appropriate time. Evaluation of the transfer of functions from one federal agency to the Indian agency should include a consideration of what can be gained by the transfer, what may be lost, where the program or programs would be best administered, and a comparison of the projected levels of funding within the Indian agency versus administration by another federal agency. Existing problems will not be resolved merely through transfer of functions to a new agency. But the creation of an independent Indian agency could mark a new phase in federal administration of Indian affairs, and Indian people can play an important role in determining its success.

The last section of the chapter addresses the creation of separate Indian committees in both houses of Congress. As most readers of the Commission report will already know, a two-year Select Committee on Indian Affairs has been established in the Senate, chaired by Senator James Abourezk. However, there has been a reverse trend in the House with the placement of the Subcommittee on Indian Affairs under the Committee on Public Lands. Given this trend, it can be anticipated that it will take a great deal of public expression on the part of every Indian to effectuate the Commission recommendation for Congress to establish permanent standing or special select committees for Indian Affairs in each House or place all jurisdiction, oversight and legislative authority in one Joint Select Committee.

CHAPTER 7 - ECONOMIC DEVELOPMENT

The Commission has presented the topic of economic development broken down into sections on natural resource development (land, water, minerals, timber, fisheries and wildlife), manpower development, investment of Indian trust funds by the BIA and taxation. On the whole, the chapter is disappointing -- failing to provide definitive statements on some of the most major issues in Indian country today.

The section on land is one of the better ones in the natural resources development section. Although the findings introduce facts which were not discussed in the text, they lead to recommendations which are generally good. The recommendations contained herein address Congressional action to enable land acquisition and consolidation of checkerboarded areas, with specific provisions addressing resolution of fractionated heirship problems. These latter recommendations should be closely scrutinized by tribes which would be affected by Congressional action in this area. The last recommendation calls for Congressional investigation of the disproportionate incidence of federal condemnation of Indian land for reclamation projects vs. non-Indian land. Given what is already known about the scope of this problem, Commission recommendations for action in this area should be much stronger and should refer to the trust impact statement recommended in Chapter 4.

The section on water resources is perhaps the most disappointing -- apparently the Commission did not give high enough priority to this topic to assure its adequate coverage. The section is surprisingly brief (3 pages) and in that space, seeks only to explain the Winters doctrine of water rights and to distinguish Indian water rights from Federal property -- an important distinction, but certainly not all there is to be said about water rights. There is only a brief attempt to state the problem or frame the issues involved that are so critical to the survival of a great number of tribes. Equally as important (though the Commission report does not even mention) is the responsible and generous role Indians have played in negotiating with non-Indian interests for non-Indian access to Indian water resources. Nor is there any description of the impact of water diversion from reservations on the lives of reservation residents. Moreover, there is no discussion of the economic burden borne by tribes in litigating water rights. Many of these issues surrounding Indian water rights which the Commission report fails to raise, are highly relevant to the

recommendations called for in the chapter on Trust Responsibility (Trust Protection Authority) and should logically be discussed in that chapter, as there is no discussion in this chapter as to how water resources relate to economic development. The recommendations address the development of tribal water codes, and BIA action to: inventory tribal water resources, conduct land use surveys to determine irrigability and engineering studies of water resources for litigation, and to make funds available for legal and engineering research precedent to litigation. In addition, the recommendations call for a trust impact statement (outlined in Chapter 4) and for an extension of the Winters doctrine requiring affirmative action related to tribal needs before allocation of tribal water resources to non-Indians. The Commission recommends that the Federal government require states to determine Indian water rights in their water rights allocation process, based on an extension of the Winters doctrine. Finally, the Commission recommends a Congressional investigation of litigation in the San Juan River Basin, the Rio Grande Basin, the Colorado River Basin and the cases of Walton, Bel Bay and Big Horn. Unfortunately, the Commission offers no guidance to the Congress in presenting the background or issues involved in any of these cases (although the reader may logically assume they affect Indian water rights), and thus, Congressional initiative based on no substantive information becomes doubtful.

The section on mineral resources seems to have been more nearly written within the framework of economic development than the two sections on land use and water rights preceding it. Early in the section, the report raises the interesting question of state tax revenue derived from non-Indian mining operations on reservations compare[illegible]h tribal royalties derived from same, and then dismisses the topic wi[illegible]out further exploration. Although there is a section on taxation which appears later in the chapter, taxation is discussed in that section in terms of the legal basis supporting or defining a tribe's power to tax, and how that tribal power to tax may conflict with state desires to tax. But the concept of taxation as a tool of economic development is seriously neglected in the discussion of either taxation or mineral resource development. In light of the reality that most states derive income not only from the sale of extracted minerals but from the taxation of mining operative proceeds, and that the revenue derived from the latter is substantial; it seems logical that the Commission would have explored the concept of tribal taxation of mining operations or the substantial loss of revenues borne by the tribe

concomittant with state taxation in a more thorough manner. Also, given the nature of the dissenting views expressed in the minority report to the Commission, it appears particularly important that prevalent non-Indian misconceptions regarding the benefits accruing to tribes from the location of non-Indian business operations on the reservation be finally dispelled, and that the true picture of the loss in revenue to the tribe because of state taxation of mineral extraction operations, and the associated gain in revenue accruing to the state be an important part of the record to be presented to Congress. The recommendations in this section caution tribes to proceed with the mining of non-renewable resources with careful deliberation, and advise caution in pursuing joint ventures with non-Indian corporations so that the ownership, control and processing of minerals remains in the hands of the Indians. Recommendations also call for the clarification of the BIA's role in supporting Indian interests throughout the mineral leasing process, and the services of the United States Geological Survey and the Bureau of Mines in compiling technical data for a comprehensive natural resource inventory for each reservation. Other recommendations would amend present laws to insure tribal control of the development of Indian-owned natural resources, although specific statutes are not cited, nor is there presented a discussion of such action as it affects the trust responsibility. Recommended amendment of 25 CFR §171 and §177 would provide alternatives to now outdated lease agreements.

The section on timber provides a more well-developed factual basis than the preceding sections for the presentation of recommendations which address tribal control over timber resources and direct funding to tribes to conduct timber resource surveys. The report advises tribes that full regeneration should be a condition of leasing, and that the Federal government should reimburse tribes affected by BIA mismanagement of reforestation. In addition, the report recommends standards of Bureau forestry management which includes securing the highest possible royalty or rental rates, guarantees of full regeneration, reasonable duration of leases and enforcement of the lease.

The major recommendation in the section on fisheries and wildlife calls for a Congressional resolution declaring that it is not the policy of Congress to abrogate Indian hunting, fishing or trapping rights.

There is however serious omission of the role the courts have played in defining Indian hunting and fishing rights. That is, contrary to the views expressed in the minority report to the Commission, Indian rights to hunting and fishing have been upheld by the courts even where those rights are not

specifically detailed in treaties. (Menominee Tribe of Indians v. United States, 391 U.S. 404, 88 S. Ct. 1705, 20 L.Ed. 2d 697, 1968) Moreover, in this case and others, the Supreme Court has indicated its extreme reluctance to find Congressional abrogation of Indian treaty rights in the absence of explicit statutory language so directing. Given the posture of the Court thus far, recommendation for Congressional action in this area would seem to be redundant of the principles already recognized by the courts, and may subject the legal rights of the Indians to the political vagaries of Congressmen seeking re-election from their non-Indian constituencies who stand to benefit greatly from the abrogation of Indian hunting and fishing rights.

In addition, the chapter fails to discuss the grounds upon which a state may exercise police power to regulate Indian fishing under the auspices of conservation. Review of cases in this area shows that the courts have favored the Indian entitlement in determining regulation for the purposes of conservation and have held that direct regulation of treaty Indian fishing in the interests of conservation is permissible only after the state has proved unable to preserve a run by forbidding the catching of fish by other citizens under its ordinary police power jurisdiction. (Antoine v. Washington, 420 U.S. 194, 95 S. Ct. 944, 952, 43 L. Ed. 2d 129, 1975)

Apportionment of the right to fish has been subject to state regulation for purposes of conservation on the basis of treaty provisions which state that Indians may fish "in common with" other citizens at traditional grounds. The legal effect of this clause has been much disputed. The state argues that the term "in common with" was intended merely to insure that the treaty Indians would not be treated discriminatorily, that each Indian should have access to the traditional fishing grounds on the same footing as each white settler. The Supreme Court long ago considered this construction, however, and rejected it. United States v. Winans, 198 U.S. 371, 379-82, 25 S. Ct. 662, 49 L. Ed. 1089 (1905). Thus, the concept of equitable adjustment of access to fishing comes into play, and the courts have upheld the Indians' entitlement to catch 50% not simply of the fish passing the traditional grounds, but also of those destined for those grounds but captured downstream or in marine waters. United States v. Washington, 384 F. Supp. 312 at 343 (W.D.W. 1974).

These points and others would improve the discussion of fisheries and wildlife as they relate to the development of natural resources on Indian reservations today.

The section on manpower development addresses the need for education and training of Indians in business, science and technical disciplines for the comprehensive economic development of Indian reservations. Recommendations address the funding of preparatory and college education in these fields, recruitment and scholarship programs, and development of on-the-job training programs and funding for paid summer jobs in business and industry.

The section on availability of investment capital discusses the management of tribal funds by the Bureau of Indian Affairs. The narrative outlines the various kinds of tribal funds and the manner in which they are presently being invested by the Bureau. Recommendations address methods of investment which would provide a greater return on the money invested and a maximization of monies held in trust fund status. In addition, recommendations call for the amendment of 25 U.S.C. §1522 to increase the $50,000 limitation on non-reimbursable grants to Indian-owned economic enterprises. Recommendations also address the availability of Small Business Administration program funds and technical assistance to tribally-chartered businesses or businesses operated by tribal governments. However, government-run businesses are expressly excluded from eligibility for Small Business Administration programs.

The recognition of eligibility of tribally-chartered businesses by the Small Business Administration, and the appropriate amendment of regulations to provide for such, is consistent with the recognition of tribes as governments, exercising governmental powers, among which is the power to charter tribal enterprises. The Commission also recommends that the Congress direct the BIA to create a Branch of Investment Counseling in the BIA and to increase the staff in the Branch of Investments.

For the most part, the taxation section is an excellent section of the Commission report with an accurate legal treatment of Federal, state, and tribal taxation. Of the eight recommendations, only three are troublesome.

The Commission recommends that Congressional intent to exempt Indians from taxation should be construed broadly and in a light most favorable to the Indians. A fair reading of the case law on Indian taxation would indicate that the courts have, and still are applying this principle. Congressional action in this area is therefore unwarranted and probably ill-advised.

Another recommendation calls for legislation which would exempt from federal taxation, benefits from programs advanced in aid of Indian economic development. This recommendation is vague and overly broad in its scope.

In effect, it would exempt from taxation a tribal business concern located anywhere, on or off the reservation. Politically, the issue of Indian exemption from taxation will always be a hotly contested one, and before a broad special tax exemption is recommended for Indian tribes, it is advisable that it have a sound and rational basis. A discussion of the basis for this recommendation is not found in the section on taxation.

The Commission further recommends that state taxation within Indian reservations be invalidated as applied to Indian tribes and non-Indians. With respect to Indian tribes, state taxation is already prohibited. With respect to non-Indians, the recommendation attempts to codify the "infringement" test of Williams v. Lee by prohibiting state taxation of non-Indians if it would infringe upon the right of a tribe to govern itself. It is difficult to understand how the infringement test would be of any assistance in determining the validity of a state tax on a non-Indian. It has the further effect of prohibiting state taxation even when the tribe is not attempting to regulate or tax non-Indians on the reservations. Thus, to non-Indian governments, Indian reservations will have the appearance of being tax havens for non-Indians. Non-Indian exemption from state taxation should be based on tribal pre-emption. In other words, once a tribe adopts and implements a taxing scheme for its Indian and non-Indian residents, state attempts at taxation of non-Indians should be prohibited.

CHAPTER 8: SOCIAL SERVICES

The chapter on social services contains four sections: welfare systems, child placement, health and education. All four sections provide adequate coverage of the issues in each subject area, and recommendations were found to be acceptable by those reviewing this chapter.

The section on welfare systems provides a clear, concise treatment of the issues involved in Indian eligibility for welfare services, be they federal welfare programs, federal-state programs, state-local programs or BIA general assistance. The description of the relationship between state provision of welfare versus benefits available through BIA general assistance frames the dilemma most Indians are confronted with in seeking welfare assistance, and the recommendations addressing the resolution of these problems is excellent.

The section on child placement is incomplete. Only one page of the narrative is included, none of the footnotes are contained herein, and what seems to be only the first page of recommendations in this area have been included. Recommendations call for the involvement of the tribe of origin as a party in interest in all child placement proceedings, and exclusive jurisdiction of the tribal court where such exists. Other recommendations direct non-Indian social service agencies to establish a preference for placement of Indian children in Indian homes, and to evaluate and change all economically and culturally inappropriate criteria. Another issue involved in child placement which may be discussed in the missing narrative and addressed by the missing recommendations but not included in this copy of the Commission report surrounds accreditation of child placement facili-

ties and foster homes on a reservation. State social workers have expressed their reluctance to apply standards of accreditation which are not relevent to many Indian settings. However in many states, as a condition of federal or state funding, social workers are required by law to apply accreditation standards which act to disqualify Indian holding centers, child placement facilities, day care facilities and foster homes on Indian reservations. The result is that Indian children are taken off the reservation and placed in non-Indian homes which meet accreditation standards, and subsequently come under state jurisdiction in final placement proceedings. The Commission recommendation which directs non-Indian social service agencies to evaluate and change all economically and culturally inappropriate placement criteria would not resolve the situation where economically and culturally inappropriate placement criteria are statutorily required and the non-Indian social service agency does not have the authority to change the law. The final recommendation requests the appropriation of significant Federal financial resources for the enhancement or development and maintenance of mechanisms to handle child custody issues including but not limited to Indian-operated foster care homes and institutions.

The section on Indian health provides an excellent overview of the status of Indian health and the problems which confront Indians in obtaining health care services from discriminatory health care providers or the understaffed and inadequately funded Indian Health Service. The narrative effectively documents the current status of health care provided to Indian people and the inadequacy of health care systems to respond to the increasing incidence of disease resulting from deplorable environmental disease-breeding conditions and poor nutrition. An evaluation of the recently enacted Indian Health Care Improvement Act leads to the conclusion that funds authorized

under the Act are not sufficient to respond to the health care needs of Indian people, nor to realize the goal of bringing the status of Indian health up to parity with that of the general population. Recommendations request funds in excess of those authorized under the Indian Health Care Improvement Act to adequately respond to Indian health needs. Other recommendations call for Congressional action in areas not addressed by the Act (Public Law 94-437) and full cooperation of the Indian Health Service in the implementation of the Indian Self-Determination and Educational Assistance Act. In addition, the Commission recommends that a management study of the Indian Health Service be conducted within the context of evaluating the feasibility of phasing the Indian Health Service into an independent Indian agency at an appropriate time.

The section on Indian education is a significant improvement over the final report of the Task Force on education. There are specifically three recommendations which must be emphasized, and one recommendation which should be supplemented. The three recommendations which must be emphasized are (1) the need for Indian control of education systems, (2) adequate financial support for construction and operational support for Indian schools whether they be public or tribally-controlled, and (3) reform of the BIA schools. These three are the key recommendations in the report, and Congress' attention must be focused on them rather than diluting their effect by lumping them in with other recommendations.

The major area which the Education section does not address is bilingual and remedial programs in BIA schools. There is some discussion of reform of the BIA schools, and there is discussion at various parts of the report on the need for bilingual and remedial programs in BIA schools. However, there is no clear definite recommendation that the BIA institute com-

prehensive bilingual and remedial education programs in its schools whether they be on or off reservation, day or boarding schools.

CHAPTER 9: OFF-RESERVATION INDIANS

The federal intention to provide services to off-reservation Indians was firmly established when Congress enacted the Snyder Act in 1921 providing appropriations for the benefit, care and assistance of Indians throughout the United States. More recently, Congress has reaffirmed its intention to provide services to off-reservation Indians in enacting the Indian Health Care Improvement Act, certain provisions of the Comprehensive Employment and Training Act, and programs under the Office of Native American Programs. In these pieces of legislation, the eligibility of urban Indian centers to receive funds and administer services is clearly stated.

The Commission report could have provided this background as the basis for claims of off-reservation Indians that they are entitled to federal services. However, the chapter is so poorly written and legally confusing that it serves to obfuscate the issue of off-reservation Indian entitlement. Instead, the chapter addresses a variety of mechanisms through which urban Indian centers might provide services to off-reservation tribal members. The two major alternatives presented would (1) provide funding directly to the urban Indian center, or (2) provide funding direct to tribal governments, whereupon tribal governments would allocate funds to urban Indian centers on the basis of population of their tribal members residing in the urban center service area. It is assumed that the last recommendation contained in the chapter speaks to the second alternative by recommending that the "Executive Branch should conduct a detailed examination of assistance programs and need areas to determine which would be most expeditiously administered by tribal governments."

Other recommendations request Congress to direct the Executive to deliver appropriate services through urban Indian centers. This recommendation should probably be in the form of a direct recommendation to the Executive, and would probably be more meaningful if what is meant by "appropriate services" were explained. The reader may assume that the recommendations relative to employment, education, housing and health are those "appropriate services" contained in the first recommendation, and if this assumption is true, then perhaps the first recommendation is unwarranted as being too general to be meaningfully implemented.

The second recommendation calls for Executive branch assurance of financial support for Indian centers in urban areas by turning over BIA Employment Assistance Offices and their contracting powers to urban centers; and removing Federal domestic assistance dollars from separate programs and targeting them to urban centers. The latter part of this recommendation is extremely unclear and appears to be administratively infeasible. That is, from whom would Federal domestic assistance dollars be removed? From the tribal government? Or does the recommendation address the splitting of Federal domestic assistance programs? Since there is presently no mechanism within the federal system to separate parts of programs and target them to specific groups, it is doubtful that this recommendation could be accomplished. Rather, if the intent of the recommendation is to make urban centers eligible for federal programs, the recommendation should call for the amendment of federal domestic assistance program legislation and regulations in such a manner as to specify the eligibility of urban Indian centers.

A third recommendation is also unclear. It recommends that the Department of the Interior should direct the BIA to give its contract powers, as a matter of policy, in all urban functions, now and in the future, particularly employment placement, vocational training, and its appropriate administrative support, to urban Indian centers. Because the BIA does not have contract powers to give, the recommendation would better accomplish its goal by recommending a broad reading of Section 4(c) of the Indian Self-Determination and Educational Assistance Act or amendment of the language contained in Section 4(c) to expressly include urban Indian centers as eligible for contracting Bureau programs under Public Law 93-638.

The recommendations addressing employment, housing, health and education represent constructive approaches to the problems of off-reservation Indians.

CHAPTER 10 - TERMINATED TRIBES

The recommendations address a restoration process adhering to principles which favor restoration to Federally-recognized status for terminated tribes. However, the recommendations do not address the legal process to be undertaken. That is, once the Secretary of Interior receives a petition for restoration, what is the process for implementation? What criterion would be used by the Secretary to determine eligibility for restoration? Will restoration allow terminated tribes to be eligible for special Indian programs only, or will restoration include the return of tribal lands? If tribal lands are to be returned, what shall be the criterion used to establish reservation boundaries? Will fee patent land owned by terminated tribal members become trust property?

Secondly, what is the role of Congress in the restoration process? Is this a rubber stamp process on advice of the Secretary of Interior? Will restoration be determined by whether return of tribal lands is involved in restoration? Shall Congress appropriate money and authorize a survey to establish reservation boundaries? Who shall conduct this survey? Will Congress approve restoration as an action separate from the return of tribal lands, or will Congress make restoration contingent upon how much it costs? What is the legal responsibility of Congress to appropriate monies for restoration? What criterion shall be used to evaluate the costs of restoration?

Terminated tribes must address questions relevant to the restoration of their Federally-recognized status. Some tribes may wish restoration solely for their return to status of eligibility for Indian programs, others may want the full restoration of tribal trust land contained in original reservation boundaries, while still other tribes may want not the restoration of tribal lands, but the restoration of tribal government jurisdiction within the original exterior boundaries of the reservation.

Negotiations surrounding the return of tribal lands will no doubt be lengthy and complex, and tribes entering into such negotiations will have to determine their points of bargaining and compromise. Political realities must be carefully evaluated - particularly if there is an absence of Executive endorsement of restoration policy. Influencing Congress to fully accept and endorse a policy of restoration will be an important determinant of the success of restoration.

The Commission recommendations call for Congressional repudiation of the termination policy embodied in House Concurrent Resolution 108, but does not address any action to be undertaken by the Executive. In light of the new administration's plans for reorganization and the potential for a more enlightened Federal-Indian policy, it seems critically important that terminated tribes put their efforts toward making the new administration aware of their plight, and push for Executive endorsement of the restoration of terminated tribes to their original Federally-recognized status.

CHAPTER 11 - NON-RECOGNIZED INDIANS

This chapter of the final report is vastly superior in quality than the Task Force Report on non-recognized tribes. The recommendations go a long way towards developing, once and for all, a uniform policy for considering applications for recognition of these long-forgotten groups of Indian people. The procedures outlined for considering applications for recognition appear to be fair and equitable. The recommendations do place a great deal of the legal and financial burden of this recognition process on the United States government. Although this would be preferable, realistically, tribes may have to play a greater role in this process than the recommendations indicate.

Absent from this section is any discussion of recognition in the context of tribal self-government. Although the extent to which a newly recognized tribe is able to exercise governmental powers is directly related to whether that tribe possesses a land base, it is important to avoid creating second-class tribes who are only recognized as being eligible for special federal programs designed for Indian people.

If a tribe seeking recognition is already in possession of land, then clearly the federal government should have an obligation to place such land in trust for the benefit of the tribe. Once recognition occurs the tribes should then be able to exercise normal governmental responsibilities and functions. Many tribes seeking recognition have little or no land base and although it would be unrealistic to require the United States to purchase lands for such tribes, once a tribe has obtained lands, whether by purchase or gift, the Secretary of Interior should have an affirmative obligation to place such lands in trust status, if that is the desire of the tribe.

CHAPTER 12 - SPECIAL CIRCUMSTANCES - ALASKA

Alaska Natives

Alaska Native Claims Settlement Act

A substantial portion of this section focuses on the impact, both present and future, of the Alaska Native Claims Settlement Act (ANCSA). For the most part, its treatment is well done containing recommendations which, if adopted, could resolve some of the more serious obstacles to the successful implementation of the ANCSA.

However, serious exception must be taken with the basic premise or finding that the ANSCA did not intend to nor has it affected the sovereign powers residing in the Alaska Native Communities. Although the ANCSA did not terminate Alaska Natives with respect to their eligibility for federal services based on their status as natives, it is wholly inaccurate to say that the Act did not alter, in any way, the legal nature or status of Alaska Native tribes. The Alaska Native Claims Settlement Act specifically:

1. expresses a policy against creating reservations, wardships, or racially-defined institutions;
2. terminates all hunting and fishing rights;
3. unilaterally revokes all reservations except Metlakatla;
4. revokes the Indian allotment Act applicable to Alaska Natives; and
5. provides for state taxation of Native lands after 1991.

The Act, in effect, de-emphasizes the role of Native Village governments by preventing their ownership or control of any substantial portion of the 40 million acre settlement.

INDIAN SELF-DETERMINATION ACT

The Indian Self-Determination Act (P.L. 93-638) defines "Indian tribe" as "...any Indian tribe, band, nation, or other organized group or community including any Alaska Native Village, or regional or village corporation..." In trying to come to terms with the uniqueness of Alaska Native institutions, Congress unfortunately, created the problem of recognizing, for any one village, up to three different native organizations as potentially eligible to contract under the provisions of P.L. 93-638. The Bureau of Indian Affairs is then left with the difficult responsibility of deciding which institution, among those competing, should be allowed to contract. This report recommends that Congress establish a priority whereby preference is given to larger organizations over smaller. Where the organizations are of the same size preference is to be given to the one most tribal in nature.

This recommendation, if adopted, would have the effect of not only discriminating against the smaller more traditional Native villages, but will completely undermine their role in the community. Because many Native villages are located in remote areas of Alaska long distances from urban areas, they are generally in the best position to know the needs and desires of their people. As discussed earlier, the Native village governments must already play a secondary role as a result of the ANCSA, they should not have to do so with the Indian Self-Determination Act. It should be the right and option of the Native villages to decide whether they want to contract or allow another Native organization to contract on their behalf. As a matter of practicality and economy of scale, larger Native associations may be the best suited to deliver

services to Native villages, but that decision should not rest with the Bureau of Indian Affiars nor the legislatively created regional or village corporations.

It is recognized that there are Native people who are no longer associated with Native villages, but are members of village or regional corporations. Village and regional corporations should be allowed to contract to provide services to those Native people, but should not be allowed to unilaterally include Native villages without their consent.

Tlingit-Haida Central Council

The report contends that the Act of August 19, 1965, 79 Stat.543, established the Tlingit-Haida Indians as a single sovereign tribal entity and the Tlingit-Haida Central Council designated as the general and supreme governing body of that entity. Therefore, for purposes of the Indian Self-Determination Act, the Central Council need not obtain the consent to contract from each and every Native village represented by the Central Council. The Juneau Area Director of the Bureau of Indian Affairs has taken the position that the Central Council must obtain the consent of each of the Native villages.

The Act of August 19,1965 simply cannot be read to have conferred on the Central Council all the powers of a sovereign government. Nowhere in the Act is there such language. The Act was an amendment to the Act of June 19,1935, 49 Stat. 388, which authorized the Court of Claims to hear and determine claims of the Tlingit-Haida Indians. The 1935 Act provided for the establishment of a "Central Council" which could represent all Tlingit-Haida Indians in claims matters.

In a letter to Wayne Aspinall, then Chairman of the Committee on Interior and Insular Affairs, the Under Secretary of the Interior, John Carver reported on the bill which would eventually become the Act of August 19, 1965. The letter states that the 1935 Act emphasized the "separateness" of the Native Communities making it exceedingly difficult to form an organization which could represent all the Tlingit-Haida people in claims matters. Since the 1935 Act, many Native people have moved from the villages to larger urban areas, thus if claim funds were devoted entirely to village use those Natives would not have an opportunity to benefit from the claims award. For that reason, the Act of August 19,1965 was drafted. The letter further states that, "Certainly, the intent of the 1935 Act should be preserved with respect to the Tlingits and Haidas who still dwell in the traditional villages."

The Act of August 19, 1965, was designed to facilitate the preparation of a roll of all the Tlingit-Haida people. The Act merely recognizes the Central Council as the "official" council for "purposes of this Act" and authorized them to prepare plans for the uses of the anticipated claims award.

With respect to the Native villages of the Tlingit-Haida people it cannot be said that they have consented to such a broad delegation of their individual sovereignty beyond what authority was needed to disburse the claims award. Therefore, tribal consent should be required before the Central Council is authorized to contract on behalf of a Native village.

With respect to those Tlingit-Haida people who no longer live in the traditional villages, the Central Council should be treated as a tribe and not be required to obtain any consent for purposes of the Indian Self-Determination Act.

CHAPTER 12 - SPECIAL CIRCUMSTANCES - OKLAHOMA

The Commision calls for the repeal of all laws which prevent the tribes of Oklahoma from exercising complete jurisdictional authority and governmental powers and recommends the reassumption of federal and tribal jurisdiction to the exclusion of the state. It further recommends that federal Indian policy apply to the Indian tribes of Oklahoma without distinction.

The difficulty with these recommendations is that not only are they quite broad and sweeping, but they ignore the complex legal-historical discussion presented in the narrative. While the intent of Congress to disestablish reservations and dismantle tribal governments is perhaps clearer with respect to the Five Civilized Tribes of eastern Oklahoma, the same cannot be said for the tribes of western Oklahoma. The effect of the allotment policy on the ability of western Oklahoma tribes to exercise powers of self-government and the extent to which the state of Oklahoma is legally exercising criminal and civil jurisdiction over tribal land and Indian allotments are still issues to be litigated. It is till too premature, with respect to western Oklahoma tribes, to assume that Congressional action is necessary. The recommendation implies that western Oklahoma tribes have already lost these important jurisdictional issues.

The Commission found that the myriad of laws passed by Congress with respect to the tribes of Oklahoma has resulted in confusion as to the relative powers of the tribes and the state on almost a tribe by tribe basis. For this very reason, it is absolutely essential that further study be conducted on a tribe by tribe basis to determine the extent to which the various treaties, statutes, and allotment agreements affected the sovereign nature of the tribes of western Oklahoma. The sweeping recommendations suggested by the Commission are simply not warranted by the discussion section of this chapter.

With regard to eastern Oklahoma, specifically the Five Civilized Tribes, legislation restoring reservation status and tribal powers of self-government may be in order but aside from the testimony of the Creek Nation, the remaining Civilized Tribes expressed no real interest or support in such a recommendation.

CHAPTER 13 - GENERAL

There are four sections to chapter 13 which address issues not related to the subject matter breakdown contained in the rest of the Commission report, nor are the sections within this chapter related to one another.

The first section addresses the national awareness concerning Indian issues and recommendations call for the development of educational programs in Indian affairs in school systems throughout the country to be offered on an optional basis, while mandatory training in Indian history, culture and legal status is recommended for all government employees administering any Federal program or state or local program funded in whole or part by federal funds. While the latter recommendation may seem unrealistic, it does seem reasonable to require such training of government employees administering programs which benefit Indians.

The second section of the chapter is in fulfillment of the mandate of Public Law 93-580 which created the American Indian Policy Review Commission and directed the Commission to explore the feasibility of creating some form of alternative elective body for representing Indian interests at the national level of government. The Commission recommends that Congress take no action in this area at the present time, and that no action be taken without consultation with each and every tribal government.

In the third section, the Commission recommends that the work begun by the Task Force on Consolidation, Revision and Codification of Federal-Indian Law be referred to the appropriate Congressional committees in both Houses with a recommendation that the process continue in committee and that further input be obtained before finalization.

The fourth section of the chapter recommends the creation of a Native American Studies Division in the Library of Congress with a central reference area and research support staff of Native American specialists. The expansion in collection of publications which concern Native Americans and the compilation of bibliographies would be added to the data base maintained by the Congressional Research Service to provide automated information retrieval from their Selected Dissemination of Information System.

MINORITY REPORT - SEPARATE DISSENTING VIEWS OF CONGRESSMAN LLOYD MEEDS

A review and rebuttal to the minority report to the American Indian Policy Review Commission is being prepared by the Native American Rights Fund.

Tribes and Indian organizations are urged to review the minority report to the Commission and to generate their own comments in response to the views expressed in the minority report.

1015 Indian School Road, N.W.
Albuquerque, New Mexico 87107

NEW MEXICO INDIAN TAX STUDY COMMISSION

Phone: (505) 842-0950

April 20, 1977

American Indian Policy Review Commission
House Office Building, Annex #2
2nd and D Streets, S.W.
Washington, D.C. 20515

RE: All Indian Pueblo Council Policy Review Report

Dear Mr. Stevens:

The comments by this Commission, which works for the Nineteen (19) Pueblo Tribes of New Mexico, and the Mescalero Apache Tribes, are to be included with the All Indian Pueblo Council's separate policy report.

After reviewing your Commission's Report on Taxation, the New Mexico Indian Tax Study Commission finds itself in agreement with your findings. The Commission also agrees generally with your recommendations, and would like to expand on the following points:

1) "Congress should provide by legislation that federal laws and treaties advanced as evidencing Congressional intent to exempt Indians from taxation shall be construed broadly and in a light most favorable to the Indians, and that the Internal Revenue Service should be supportive of such intent."

This would probably entail amendments to the Internal Revenue Code such as are being contemplated in H.R. 8989, and S. 2664. However, even the amendments found in this Bill fall short of meeting tribal needs. For instance, the section dealing with the Tribal Issuance of Revenue Bonds should be expanded so as to allow the tribes more types of governmental bonds than are presently allowed to other governmental bodies under the Federal Revenue Codes. Also, a closer look should be taken to see what type of federal tax breaks would prove most advantageous to tribes economically, not only at the tribal government level but at the individual tribal enterprenuer as well. This is extremely important at the wholesale and retail level, especially in view of some states' limitation on the issuance of non-taxable transaction certificates by individual Indian retailers.

American Indian Policy Review Commission
April 20, 1977

2) "Congress should amend or repeal, as appropriate, those statutes which authorize state taxation which is in conflict with Federal-Indian policy to foster economic development of reservation Indians and enhance tribal self-government..."

More specifically the federal government should repeal those laws found at 25 U.S.C. 398 to 398(c) which allow the taxation on the severance of oil and gas from Indian lands. The present laws serve as a great economic restriction on tribal governments.

Another future hinderence may be the effects of state leasehold tax on non-Indians operating businesses and living within tribal boundaries. Present case law is unclear in this area, and federal legislation may be necessary to sufficiently settle the matter.

3) "Congress should provide tax appropriate legislation that state taxation within reservation be invalidated as applied to non-Indians and Indian tribes; prohibit taxation of the non-Indian interest in cases of tax exempt lands leased from Indians..."

The major concern with the tribes is the states' continued attempts to tax non-Indians found on Indian lands. A stand by the federal government clarifying any such action to tax or license or regulate non-Indians on Indian lands without tribal consent as amounting to non-allowable interference with tribal government would go a long way to alleviating tribal-state tensions. It would also insure a future economic advantage to tribes, one that is presently being nullified by such attempt of state taxation on non-Indians.

We hope these comments will aid your Commission in better identifying our local concerns.

If you need any further information in the area of tribal-state taxation, please feel free to contact our offices.

Thank you.

Sincerely,

Joseph Little

Joseph Little
Executive Director

JL/rc

93-440 O - 78 - 45

JERRY APODACA
GOVERNOR

STATE OF NEW MEXICO
OFFICE OF THE GOVERNOR
SANTA FE
87503

April 12, 1977

The Honorable James S. Abourezk, Chairman
American Indian Policy Review Commission
United States Senate
House Office Building Annex No. 2
2d and D Streets, SW
Washington, D.C. 20515

Dear Senator Abourezk:

The State of New Mexico does not dispute the existence of a special trust relationship between the Federal Government and those Indian governmental entities located within our State's boundaries. In fact, the Office of the Governor unequivocally pledged to the Indian citizens of the State of New Mexico to support the preservation of Indian sovereignty within tribal jurisdictional boundaries. Furthermore, we are aware of the complex nature of the interrelationships at the federal-state-tribal level and the far-reaching implications of decisions which are made by any one or all of those three governmental units, either singly or in concert.

In particular, we believe that the arguments set forth in Chapter 3B regarding "A Statistical Profile on the Indian: The Lack of Numbers" are crucial. Making available accurate data relevant to the subject of Indian affairs is necessarily the first step at any governmental level, because without the facts, there is no way to estimate progress towards a particular goal. Indeed, the very process of goal setting is difficult to complete without an accurate representation of the true conditions within the area of Indian affairs.

In addition, the Legislature of the State of New Mexico has authorized a study into the conditions of the State's Indian tribes particularly in those legal-jurisdictional areas which are especially unclear. This study will naturally examine tribal-federal-state relationships

as they appear in New Mexico with its large Indian population residing on sizeable tracts of Indian land. Hopefully, in the near future, some of these problem areas will be mitigated or solved in the best interests of all citizens of our fine State, including, of course, our Indian citizens.

Sincerely,

JERRY APODACA
Governor

JA:amd

STATE OF NEW MEXICO
HEALTH and SOCIAL SERVICES department
OFFICE OF THE GENERAL COUNSEL
P. O. BOX 2348, SANTA FE, NEW MEXICO 87501

May 13, 1977

Hon. James S. Abourezk, Chairman
American Indian Policy Review Commission
Congress of the United States
House Office Building, Annex #2
Washington, D.C. 20515

Dear Senator Abourezk:

I am writing to comment upon the tentative final report of the American Indian Policy Review Commission. In particular, I wish to raise certain issues not covered in the Commission's treatment of Indian health services at pages 6-59 thru 6-63, nor in the discussion of the implementation of the Indian Health Care Improvement Act (P.L. 94-437) at pages 8-13 thru 8-68, specially 8-61 thru 8-68, nor in Congressman Meed's dissenting views at pages 71 and 72.

As we read Title IV of the Act, it does two things. First, it permits the Secretary to process reimbursement for appropriate health services to eligible individuals under Titles XVIII and XIX of the Social Security Act rendered at Indian Health Service Hospitals notwithstanding the prohibition against such reimbursement to federal facilities. Second, it gives IHS facilities twelve months to bring themselves into compliance with the standards generally applicable to hospitals and nursing homes under medicare and medicaid.

The most obvious manner for effectuating Title IV of P.L. 94-437 would be for the Secretary to contract directly with Indian Tribes pursuant to the Indian Self Determination Act (P.L. 93-638).

The New Mexico state plan for Title XIX requires that before the Medical Assistance Division of the State Welfare Agency, which processes medicaid payments, can assign a provider number and enroll a facility in the reimbursement program, the facility must be licensed by the State Health Agency. Thus, as presently contemplated, effectuation of P.L. 93-437 will require the State through its employees to enter upon Indian Pueblos and Reservations for the purpose of inspecting IHS facilities for compliance with the state licensing regulations applicable to hospitals.

Hon. James S. Abourezk May 13, 1977

In addition to this purely state function with reference to medicaid, participation in both medicare and medicaid in New Mexico requires the applicant facility to submit to federal certification teams and PSRO review. While these functions are dictated in the federal regulations governing medicare-medicaid and inasmuch as it might be argued that those functions are quasi-federal, the fact remains that the personnel involved are state employees and agents. The question arises then of whether activity such as this by the state on Indian lands would be an infringement of Indian rights to tribal self government. We here believe that it might; and we are in the process of attempting to develop agreements with the tribes in New Mexico upon whose lands are found IHS Hospitals, which would authorize this activity. Our view is that agreements granting such authorization would re-affirm tribal sovereignty. Similarly, such agreements reached prior to the State's activity would avoid the untoward consequences of 1) working an inadvertant waiver of tribal sovereignty if the activity were permitted unchallenged, or 2) the proliferation of litigation brought by tribes wishing to challenge such activity.

P.L. 93-437 is relatively clear in its mandate to the secretary insofar as he is required to consider IHS facilities eligible for reimbursement; but it is totally silent on the State's authority to proceed with enrolling IHS facilities located on Indian land in state programs. See, §XV, Report of the Committee on Interior and Insular Affairs, U.S. Senate, Report #94-133 at p. 159; and §XVI, Report of the Committee on Interior and Insular Affairs, House of Representatives, Report #94-1026, Part I, at p. 133.

My suggestion is that the Commission add to its list of recommendations in this area, 1) direction that the Secretary implement 93-437 by means of contracting with Indian tribes pursuant to P.L. 93-638, or 2) direction that the states should be required to obtain written authorization from the Tribal Councils to be affected by proposed implementation of the medicare-medicaid program requirements on Indian land prior to commencement of such activities, or 3) that P.L. 93-437 be amended to give an unambigious method of implementing the Act in non-P.L. 280 states.

I find the tentative draft most useful. It certainly reflects an enormous amount of work. I would appreciate receiving further drafts of the Commission's report as they become available.

Sincerely.

Geoffrey Sloan
Agency Attorney
Office of General Counsel
Health and Social Services Department
P. O. Box 2348
Santa Fe, New Mexico 87501

GS/mam

Hon. James S. Abourezk May 13, 1977

cc: Toney Anaya, Attorney General
Richard Bosson, Civil Div. - AG's Office
Robert L. Lovato, SHA
Mike Burkhart, SHA
Joe Flynn, Medical Assistance Div. - SWA

Sidney Edelman
Assistant General Counsel for Public Health
Department of Health, Education & Welfare
Office of the Secretary
Rockville, Maryland 20852

OKLAHOMA CITY URBAN INDIAN HEALTH PROJECT

1214 NORTH HUDSON
OKLAHOMA CITY, OKLAHOMA 73103

232-1526
232-1527
232-1528

April 26, 1977

Mr. Ernest L. Stevens, Director
American Indian Policy Review Commission
House Office Building Annex #2
2nd & D. Streets, S.W., Room 3158
Washington, D.C. 20515

Dear Mr. Stevens:

The following are our comments on certain portions of the Report.

Federal Administration: Page 77 - Other than Indian Health Service and Bureau of Indian Affairs, other Federal Programs are not accessible nor available to Urban Indians. Most programs are filtered out to the state and local governments level, with no delivery to people. Urban Indian Programs when they attempt to apply for federal programs at this time, must apply through channels and are usually killed off in the review process. Therefore, it is our recommendation that Urban Indian Programs and particularly health programs to be made eligible for direct grants and contracts for federal programs.

Recommendations: Health: Chapter 9 - Make Urban Indian Health Programs eligible for direct access to Federal Health Programs.

In developing the National Health Insurance Program, include guaranteed benefit package for Indian people, which will supplement existing Indian Health Service Programs.

General: Indian people in cities or urban areas should be eligible for economic development assistance, i.e., B.I.A. Indian Financing Guaranteed Loans, etc.

Urban Centers: Comment to date, a great majority of Urban Centers have been rip offs. Few can show a positive track record of services and accountability.

Recommendations: Should stress working toward accountability and stability in management, personnel, and financially.

General: We concer with several statements included in the Report: Indians, regardless of place of residence, would be eligible for all services provided by Indian Health Service and the Bureau Of Indian Affairs. Also, Indians should not be excluded for services by any Agency of Government, because of their special status. We strongly recommend legislative changes, which will allow Indians to take full advantage of all Federal Programs and not be filtered out by state and local governments.

Sincerely,

Hickory Starr, Jr.
Director
OKC Urban Indian Health Project

COMMISSION ON INDIAN SERVICES
STATE CAPITOL
SALEM, OREGON 97310
(503) 378-8481

April 18, 1977

Senator James S. Abourezk, Chairman
American Indian Policy Review Commission
House Office Building Annex No. 2
20 and D Streets, S.W.
Washington, D. C. 20515

Dear Senator Abourezk:

I am enclosing for the Commission's consideration a letter from the Lakota Oyate-Ki Indian Culture Club at the Oregon State Penitentiary on the "tentative" Final Report.

Thank you for your assistance in bringing these concerns to the Commission's attention.

Sincerely,

Bruce A. Bishop
Executive Secretary

Enclosure

LAKOTA OYATE-KI
INDIAN CULTURE CLUB

APR 15 1977

OREGON STATE PENITENTIARY
3605 STATE STREET
SALEM, OREGON 97310

April 13, 1977

Commission on Indian Services
454 State Capitol
Salem, Oregon 97310

Dear Sirs:

We, the members of the Lakota Indian Culture Club, recieved and read your letter of April 4, 1977 asking for comments on the chapters of the final report to Congress compiled from extensive investigations by the American Indian Policy Review Commission.

After reading this letter it must be admitted that the report is quite thorough. However, we see no mention of the Indian people who are confined in the Correctional facilities here in Oregon. We feel that, perhaps, there should be a chapter entitled: " The Native American, Drugs and the Oregon State Corrections System".

Many of the Indian People incarcerated in these institutions are here because of alcohol and drug related problems directly related to the differences in our culture and the lifestyles of the dominant society in an urban type setting. The individual who comes from a reservation type setting to an urban environment and finds that he does not posess the necessary skills to aquire gainful employment and who cannot, therefore, support his family invariably turns to alcohol and other drugs to relieve his frustration and feelings of unworthiness. His addiction to alcohol and other drugs, many times, leads him to one of these institutions.

We feel that, with the high rate of alcoholism and addiction to other drugs, among the Indian people, not only in the State of Oregon, but in all the other states as well, this is one of the principle problems encountered by our red brothers and sisters in this society.

Were there any investigations done in this area by the Policy Review Commission? If no, why were they not ingluded in the final report to Congress.

At this time, we are in the process of developing an Alcohol and Drug Program for the Native American inmates of the three Correctional facilities here in Salem, i.e. the Oregon State Penitentiary, The Oregon Womens Correctional Center and the Oregon State Correctional Institute.

LAKOTA OYATE-KI
INDIAN CULTURE CLUB

OREGON STATE PENITENTIARY
2605 STATE STREET
SALEM, OREGON 97310

Commission on Indian Services RE: Report to Congress April 13, 1977

This program will offer personal and group counseling services to the Indian inmates of these institutions both inside the institutions and in a Half-way house type setting. The counseling services will also be extended to include the families of the inmate. Included in the services to be provided will be employment assistance, parole plan writing, help in finding housing and Spiritual guidance. All of the services will be based on the Indian culture and Spiritual way of life.

We feel that it would be helpful to our program if we were to recieve a letter of support from the Commission on Indian Services and would appreciate recieving same in the future. If you feel that you need further information before writing such a letter, you may get this information by contacting me at this address:

Lakota Indian Culture Club
c/o John Nolan
2605 State Street
Salem, Oregon 97310

I thank you, in advance, for any consideration you may give this letter in any further investigations concerning issues regarding Native Americans and Alcohol in it's role in the Indians' relationship to the crime problem.

May the Great Father watch over you...

Allan L. Eggman
Chief, Lakota Oyate-Ki

RIVED
1977

IMPORTANT

We recognize that you may not be able to thoroughly read and evaluate all parts of this Report within the time allowed for comment. However, in order to include your comments in our Final Report, this questionnaire must be completed and returned in the enclosed envelope postmarked no later than April 16, 1977. Our Final Report must be completed by May 15, 1977 for final Commission approval.

NAME Lincoln D. Billadeaux ADDRESS 1125 W. Washington Blvd. Los Angeles, Ca. 90015

TRIBE/ORGANIZATION Pleg[illegible]/Blackfeet INDIAN CENTERS, INC.

A. PLEASE CIRCLE ONE TO INDICATE YOUR IDENTITY AS:

Tribal Chairman | Tribal Governing Body | Individual Indian

Member of Congress | (Organizational Governing Board)

State Official | Private Citizen

I. PLEASE EVALUATE THE SECTIONS BY CHECKING THE BLANK WHICH MOST NEARLY REPRESENTS YOUR OPINION.

	Excellent	Good	Poor
The report as a whole is	✓		
I. History	✓		
II. Legal Concepts		✓	
III. Conditions		✓	
IV. Federal-Indian Relations	✓		
V. Tribal Government		✓	
VI. Federal Administration		✓	
VII. Economic Development		✓	
VIII. Social Services		✓	
IX. Off-Reservation	✓		
X. Terminated Indians		✓	
XI. Non-Recognized Indians		✓	
XII. Special Problem Areas		✓	
XIII. General		✓	

C. HAVING READ THE RECOMMENDATIONS AT THE END OF EACH SECTION, PLEASE ANSWER THE FOLLOWING QUESTIONS.

1) Which recommendations should be given priority status? Why? _____
Recommendations relating to urban Indians - No official voice or status

2) Are there recommendations with which you disagree? Why? _____
Some

3) Are there recommendations you would like to have added? _____
Fact Finding process should have allowed more time -

4) Do you feel the content of the report provides an accurate, useful picture of the situation? Yes - It is current - up to date - presumably factual

5) Do you have any additional comments? Distribution - Wider Circulation and Read by All Indians - Studied in All higher learning institutions and high School.

F. SPACE IS PROVIDED ON THE FOLLOWING PAGES FOR YOUR SPECIFIC RECOMMENDATIONS.

NAME Lincoln D. Billedeaux ADDRESS 3125 W. Washington Blvd. Los Angeles, Ca. 90015

TRIBE/ORGANIZATION Piegan/Blackfeet INDIAN CENTERS, INC.

RECOMMENDATIONS

Chapter ( ) Page ( ) Paragraph ( )

In the section beginning with the words "_____

_____," it is suggested that the following addition, deletion or change in wording be made, or the following concept expressed differently:

OVERALL; SUCH STUDIES BE MADE, IF NOT ONGOING, AT LEAST PERIODICALLY - 5 - 10 YEAR INTERVALS

IMPORTANT

We recognize that you may not be able to thoroughly read and evaluate all parts of this Report within the time allowed for comment. However, in order to include your comments in our Final Report, this questionnaire must be completed and returned in the enclosed envelope postmarked no later than April 16, 1977. Our Final Report must be completed by May 15, 1977 for final Commission approval.

NAME Aaron Russell, President ADDRESS 205 West Willis St,

TRIBE/ORGANIZATION Prescott Indian Center Board Prescott, Arizona 86301

A. PLEASE CIRCLE ONE TO INDICATE YOUR IDENTITY AS:

Tribal Chairman | Tribal Governing Body | Individual Indian

Member of Congress | Organizational Governing Board

State Official | Private Citizen

B. PLEASE EVALUATE THE SECTIONS BY CHECKING THE BLANK WHICH MOST NEARLY REPRESENTS YOUR OPINION.

	Excellent	Good	Poor
The report as a whole is	X		
I. History	X		
II. Legal Concepts	X		
III. Conditions	X		
IV. Federal-Indian Relations	X		
V. Tribal Government	X		
VI. Federal Administration	X		
VII. Economic Development	X		
VIII. Social Services	X		
IX. Off-Reservation	X		
X. Terminated Indians	X		
XI. Non-Recognized Indians	X		
XII. Special Problem Areas	X		
XIII. General	X		

C. HAVING READ THE RECOMMENDATIONS AT THE END OF EACH SECTION, PLEASE ANSWER THE FOLLOWING QUESTIONS.

1) Which recommendations should be given priority status? Why? Funding for Urban Centers should have number one priority with Employment as number two, then Education, Housing and Health. Funding for Urban Centers should be number one priority because it is the focal point of all activities for urban Indians.

2) Are there recommendations with which you disagree? Why? No-- All recommendations are relevent to the needs of Urban Indians.

3) Are there recommendations you would like to have added? Funds for economic development should be provided to help build Urban Indian Centers and other related facilities. Grants should be awarded to Urban Indian Centers based on need and not on population.

4) Do you feel the content of the report provides an accurate, useful picture of the situation? I believe the contents of the report is very accurate and the recommendations for alleviating the problems, down to earth and realistic.

5) Do you have any additional comments? Hon-nee- Yavapai word meaning,"right on"] The situations and conditions stated in the report are very accurate and and recommendations to alleviate the problems should be initiated as soon as possible.

F. SPACE IS PROVIDED ON THE FOLLOWING PAGES FOR YOUR SPECIFIC RECOMMENDATIONS.

NAME Aaron Russell, President ADDRESS 205 West Willis Street

[redacted]/ORGANIZATION Prescott Indian Center Board Prescott, Arizona 86301

RECOMMENDATIONS

Chapter ( ) Page ( ) Paragraph ( )

In the section beginning with the words "_____

_____," it is suggested that the following addition, deletion or change in wording be made, or the following concept expressed differently:

As an organization involved with problems of Urban Indians we can only endorse whole heartedly the report and recommendations.

The Brookings Institution

1775 MASSACHUSETTS AVENUE N.W. / WASHINGTON D.C. 20036 / CABLES: BROOKINST / TELEPHONE: (202) 797-6000

Advanced Study Program

May 10, 1977

Mr. Ernest L. Stevens, Director
American Indian Policy Review
Commission
Congress of the United States
House Office Building Annex No. 2
Second and D Streets, S. W.
Washington, D. C. 20515

Dear Ernie:

I appreciate your having sent me the "tentative final" report of the American Indian Policy Review Commission and having invited my comments. I have read some of the chapters carefully and don't want to delay any longer so I will limit my comments to Chapters 1-6 and the Meeds dissent.

Sovereignty and Jurisdiction

The debate set forth in the majority report vis a vis the Meeds dissent -- lawyers arguing with lawyers -- tends to leave even the informed reader pretty dam confused. The sharply conflicting interpretations of Worcester and Cherokee Nation, Cohen, McClanahan, Moe and Masurie in effect set up a Hegelian polarity which badly needs resolution. Perhaps the Supreme Court will do it in Oliphant but my guess is that they ought and will try, to defer to the Congress on this one, since basically the resolution of that question is a political task -- and the Constitution specifically loads that burden onto the Congress. Perhaps the Commission is even now sharpening or refining its language or even working with Mr. Meeds to aim at a synthesis.

But in preparing the country to get into this question, the Commission itself (in its April draft) presents some blurriness. This is best illustrated by the inconsistent language on page 1 vs page 29 of your Chapter 5. What is the Commission asking the tribes to aim at?:

(A) assert "some tribal jurisdiction over non-Indian people and property within reservation boundaries" ... which "must bear a reasonable relationship to legitimate tribal interests such as the protection of trust resources, maintenance of law and order, delivery of services and protection of tribal government generally."

or

(B) develop into "fully operational governments exercising the same powers and shouldering the same responsibilities as other local governments."

These are quite different objectives with quite different implications and results for both Indians and non-Indians.

My reading of the Meeds dissent leads me to believe that if the Commission's true position is (A) rather than (B) above, the majority and Mr. Meeds may not be so far apart on this issue after all. For the long-run benefit of unity in Indian country and the prospect of beneficial legislation, I hope that the majority and Mr. Meeds can get together on this point.

The Balance of the Report

While I think the Commission Report is a notable "state paper" on Indian policy as far as Indian people are concerned, I tend to agree with Mr. Meeds that contrasting and conflicting views have not been well presented in it.

The report does tend to be advocacy -- and while it may be good advocacy, what people in the White House, the Congress, the press, writers, universities, schools and the public need is a sense of the arguments on both sides of some of these questions. The views of State and local governments, some of those anti-tribal-sovereignty groups, some scholars in government and in constitutional law -- are lacking. Perhaps, you will say, this was not the Commission's task. Very well, but somebody now has to do that job and just about the only

action-forcing forum I can see is the Congressional Hearing room. Even then, research and interviewing has to be done before productive hearings can even be held. Perhaps you will be tackling this job in your new capacity.

Action Steps

I wish the Commission had the time to do some legislative drafting.

Nothing quite gives an action-push to the recommendations of any study group in public affairs as does the proposing of precisely what "documents of action" ought to be the final result of the group's work. Draft legislation, Executive Orders: these give the final momentum to what a Commission really wants to do. Your time has run out, but I mention this because I know you all ideally would want to leave behind on the record as focussed a statement as possible of what you want to see happen in the future.

The New Indian Agency

Nine or ten pages at the end of Chapter VI was too limited a treatment of the pros and cons, options, issues, consequences and alternative costs of the proposal for an independent agency for Indian affairs. You and I know that OMB and its new reorganization task forces will now be giving this idea some close scrutiny, but I wish the Report had laid out more of the analysis which must take place before the new Administration will come to any conclusions about it.

I look forward to seeing you often in the future, Ernie, as you and many of the rest build on the work you have done.

Cordially,

Brad

Bradley H. Patterson, Jr.
Senior Staff Member

PHOENIX INDIAN CENTER, INC.
A UNITED FUND AGENCY

April 21, 1977

Ernie Stephens
Task Force #5 Education
Indian Policy & Review Commission
House Office Building Annex No. 2
2nd and D Streets, SW.
Washington, D.C. 20515

Dear Sir:

In response to Task Force 5's findings on Indian Education, I would like to point out a particularly glaring omission. In no way could I find Adult Education mentioned.

Indian Adult Educators from all over the country have been meeting this past year to identify issues and concerns. One of those issues and concerns is that some other bodies continually ignore both our existence and the needs of many of our Indian Adults.

Indian leaders and politicians have concentrated for many years on the education of our children with no great amount of success as born out by your report. Indian adult education programs are trying to fill the gaps. (There are thousands of Indian adults in literacy, GED and consumer education programs. These programs are often their first or last chance for preparing to cope with life.)

How strange it is that we are concerned about reading and writing for Indian children but not for their parents who must support and feed them. (Indian Adult Ed. programs represent some of the finest examples of Indian Self-Determination.) We have existed on scraps of education funding and have an overwhelming job. All of our undereducated adults deserve better than the limbo status they are relegated. We say our children are our future. Our Indian adults from 16 to 30 are our immediate future. The 30 and over group are our present. We can not continue to wait for our very young children hoping their education will provide our leadership. Our kids are still dropping our, or receiving an inferior education. Adult Ed. programs have and can continue to begin a turn around in education.

We are in the process of forming an Indian Adult Ed. Association. I would be happy to give you any number of names of involved Indian people who could tell you about issues and needs in the field.

I will look forward to seeing the final report submitted to Congress. Please do not hesitate to contact me if I might be of assistance in any way.

Sincerely,

Reva Crawford

Reva Crawford
Adult Education Director

PIT RIVER HOME AND AGRICULTURAL COOPERATIVE ASSOCIATION

XL INDIAN RESERVATION

ALTURAS, CALIFORNIA 96101

April 16, 1977

Mr. Ernest Stevens,
Director
American Policy Review Commission
House Office Building Annex #2
2nd and D Street, SW
Washington, D.C. 20515

Dear Mr. Stevens:

As is indicated in the Tentative Final Report of the Policy Review Commission, California has been grossly underfunded by comparison to other Areas of the Bureau of Indian Affairs and Indian Health Service.

Understandably, the Report does not address itself to corrective measures that might assure "catch-up" features or even equity in the distribution of Federal funds.

Admittedly, the California Tribal Leadership has not adequately expressed itself to the Commission relative to desirable changes in the administration of Federal Programs in this State.

I would apprise the Commission of two very pertinent observations which, to a significant degree, has precluded a collective effort to analyze the Report and develop constructive responses.

A. The Area Director of the Sacramento Area Office has continually refused to provide funds requested for such a purpose. When you equate this to his willingness to provide militants with several thousand dollars for housing accomodations just to avoid their camping on the Federal Building Premises, his priorities have obviously been mis-directed to enhance his personal immage rather than fulfil his primary responsibilities.

B. There are numerous Indian and Non-Indian organizations in California that are funded from a variety of Federal sources to provide some service to members of Tribal Governments. Travel expenses for Tribal respresentatives is an important component in most of these programs.

The Tribal Governments are not directly funded! A prime example is the Inter Tribal Council funding through ONAP. Acting also out of self-prepetuating concepts, these program sponsers have blatently refused to utilize travel budgets to assist Tribal Governments to meet and exercise self-determination on a preferred collective basis.

The possibility that Tribal Governments in California might from a cohesive, effective political unit apparently poses a threat to the free-wheeling bureaucrats as well as non-reservation organizations who control other Federal fundings.

Thus, the refusal to provide available funds for purposes of developing a consensus among Tribal Leaders in the State, can be viewed with justifiable skepticism.

With this in mind, the following comments and recommendations are made as an individual Tribal Official on behalf of a small but vitally concerned constituency.

It should be noted that the wide and isolated dispersion of Indian Reservations in California provide a situation that makes adequate administration of Federal programs in California a costly venture. The current allocations to this State prohibit both the BIA and IHS from addressing the needs of each individual Indian Community. Thus, the majority of Rancherias have been excluded from active participation in programs that are taken for granted in other states.

Those that can afford planners, attorneys, and travel necessary to negotiate for contract and grant funds are showing reasonable indications of progress. Since the Federal agencies are limited to travel and since the majority of Rancherias cannot afford to travel, there is only extremely limited contact that might overcome funding or program considerations.

Federal agencies exclusive of BIA and IHS exhibit a gross lack of understanding of Tribal Institutions in California. While there has been some recent improvement, in this regard in the Regional Council, their meetings to solicit Tribal concerns still lack significant Tribal Government participation.

Apparently, members of the Regional Council are neither aware of their special responsibilities with the federally recognized Tribes nor the necessity of dealing only with Tribal representatives on matters related to Reservation and Rancheria programs.

The inability of Tribal representative to meet regularly promotes their vulnerability to political manipulation not only by federal agencies but non-tribal organizations as well.

In general, those Reservations and Rancherias that have developed political skills are better served while those without that capability are conveniently ignored. Such an arrangement reduces decision making to an art of expediency, while ignoring the equitable exercise of over-all trust obligations.

1. A GAO audit of the BIA and IHS in California. The results would not only substanciate the foregoing concerns but clearly identify problem areas that need to be addressed.

2. Initiate a management evaluation of all the BIA and IHS operations in the State for the same purposes above.

3. Re-alignment of the BIA and IHS staffing patterns as may be indicated by a GAO Audit and management evaluation. Such a re-alignment should be designed to reduce the Area Office to technical assistance functions and bolster the various agency responsibilities to more directly address the needs of Tribal constituencies.

4. Place both the IHS and BIA on a performance basis annually. This would tend to assure maximum utilization of specifically designated budgetary items and their energetic exercise of Trust Responsibilities.

5. Review the program activities of the other federal agencies providing programs to Indians for the purpose of redesigning program activities that are provide equity in distribution and coordination in the development of Federally Recognized Indian Communities.

6. Condemn the Band Analysis procedure as an instrument for budgetary consideration to the well deserved junk heap from which it was illegitimately conceived. In lieu thereof, initiate a joint effort among the federal agencies to inventory the human and physical resources of each Reservation and Rancheria for purposes of developing comprehensive individual community plans and priorities with the local Tribal Governments. Base the budgetary considerations on the reasonable priorities of Tribal Governments thus eliminating the method of incremental increases to the restrictive and inadequate budget base. Such an effort could be funded and implemented jointly among the federal agencies.

7. Mouilize all the federal agency resources in a coordinated collective effort with Tribal Governments to cooperatively administer programs that are consistant with Tribal aspirations and to a degree that establishes equity in the utilization of available funds. Some progress should be visably evidenced on each Rancheria and Reservation each year.

8. Such a process would eliminate the haphazzard, piecemeal, selective funding that now pervails and reduce bitter antimosity among the Tribal Groups who compete for limited funds or who have been unceremoniously excluded.

9. Fund the Tribal Governments and Tribal Organizations directly and eliminate the unconscionable "rip-offs" by "middleman" Non-Indian and Non-Reservation organizations. This action would be consistant with the Nation Policy of Indian Self-Determination.

10. A high priority should be given to the funding of quarterly meetings of elected Tribal Officals to establish the communications necessary to provide maximum understanding of program potential and performance responsibilities of Federal staff personnel.

Finally, these comments are made in great haste and are obviously in need of expansion and broader collective considerations. I would urge the Policy Review Commission to encourage the BIA and IHS to finance a meeting of Tribal Leaders in California for the express purpose of providing a forum for more adequate considerations.

I am deeply concerned about a positive program in California that would restore respect and dignity to Tribal Institutions.

Respectfully,

Erin Forrest

TO: American Indian Policy Review Commission
Congress of the United States
Washington, D. C.

REACTIONS TO POLICY REVIEW COMMISSION REPORT--CHAPTER 9

My general reaction to Chapter 9 of the report is that it proposes broad changes in policy that would be improvements from the point of view of justice and utility; but that it is not well informed about urban Indian life, and fails to anticipate the complexities and difficulties that would attend some of its suggestions.

I must applaud the commission's overdue recognition of three important points of policy that will very much improve the situation of urban Indians. Those are: the extension of the trust responsibility to urban Indians, the insistence that Indian programs be administered as much as possible by Indian personnel, and the recognition that programs should be funded without the requirement of exhaustive statistical support. An equitable federal policy toward urban Indians requires the adoption of all three points.

It must be said, though, that the report seems generally inadequate in its specific knowledge and recommendations. The great imbalance in sheer volume (32 pages out of some 800) indicates a concentration of attention almost exclusively on the reservation situation that urban Indians cannot very happy about. The impression created by chapter 9 is that urban Indian life is essentially an abberation in the Indian pattern, and that it is to be viewed as a morrass of government-created problems requiring some immediate redress. The complexity and occassional richness of urban Indian life is completely ignored. It is certainly true that the large urban Indian populations are primarily a result of government policy, and that we do have major problems in the areas outlined by the report. It is also true that in a fairly short period of time significant patterns

significant variations in Indian life pattern have begun to emerge in the cities, and that some fruitful and intriguing cultural developments are taking place. It is foolish to suggest that changes in lifestyle that are important to all Indians cannot take place in the cities--indeed they already are. It is true that many urban Indians have a strong primary attachment to their tribal homelands, and indeed return to the reservation at intervals for social and spiritual refreshment; but it is also true that Indian migration patterns must be understood in the context of the general transiency of American life. A significant percentage of the urban Indian population has lived in one city for at least a few years--has developed social patterns there, performed ceremonies there, suffered and triumphed there, made crafts, drawn pictures, written poetry there, and feels that their lives in the city are something more than the broken and unfortunate consequences of mistaken government policy. It would have been reassuring and gratifying to have seen some mention of the very real cultural needs that urban Indians have struggled hard to satisfy, in the listing of federally funded programs that might be administered by Indians. It is just as important to us that we monitor and administer our fair share of the federal endowment for the arts, as of Title V health monies.

Two specific areas in which the fairly shallow treatment of urban affairs threatens to create problems that the commission probably does not foresee require comment. The report alludes frequently to "Indian centers" as if that phrase were adequate to describe the institutional complexity of urban Indian life. In fact, in Chicago and probably in many other cities as well, a network of more than twenty Indian organizations services the total population. Several are very general and inclusive in the programs they offer; others

concentrate on specific issues. All of the problem areas discussed in the report--employment, education, housing, health and one additional--foster care--currently have discrete agencies of some capability whose energies are directed toward them. The reasons for the multiplicity of organizations are complex--relating to administrative convenience, tribal divergence, certain peculiarities in traditional Indian modes of organization and attitudes toward power, circumstances of funding, and accidents of history. It is not clear whether a single comprehensive agency handling Indian programs in a given city is feasible--or desirable. To designate "Indian centers" as the recipient of funds without considering the question is simply to invite problems. Some mechanism for the validation of agencies receiving funds and for an equitible distribution of funds will have to be worked out--preferrably by the concerned Indians--before legislation is passed.

The suggestion that a portion--possibly considerable--of funding designated for urban Indians will be distributed through the tribal governments strikes me as fraught with potential hazard. It presupposes a degree ofsophistication in the bureaucracies of both city and tribe that I don't think exists, and am not sure should exist. In the absence of some very detailed knowledge of the whereabouts of its members by both reservation and urban officials, I don't see how programs would be administered. I think that the distribution of funding through tribes would have the effect of disintegrating the major urban agencies, and breaking down the intertribal communication that is such an exciting aspect of urban Indian life. It also seems likely that there is not a sufficient sympathy for urban problems in the reservation governments

to assure an equitable distribution of funds. Quarrels about whether the cities were receiving their fair share would surely arise, and would likely widen the already too wide gulf between city and reservation Indians. And the withholding of funds might even be used to exert some pressure on urban Indians to return to the reservation. In all, this method of disbursement seems so likely to create problems that I could not support it unless very careful and exact guidelines were laid down.

Lonnie Poco, Executive Director
American Indian Center
1630 West Wilson Ave.
Chicago, Illinois 60640

REPORT AND RECOMMENDATIONS TO THE AMERICAN INDIAN POLICY REVIEW COMMISSION FOR THE NINETEEN (19) PUEBLO GOVERNMENTS OF NEW MEXICO

Submitted By:

THE ALL INDIAN PUEBLO COUNCIL
1015 Indian School Road, N.W.
Albuquerque, New Mexico 87107
BUS: - 505/247-0486

ALL INDIAN PUEBLO COUNCIL, INC.
Office of the Chairman
1015 Indian School Road, N.W. P.O. Box 6507 Albuquerque, New Mexico 87107 Phone: (505) 247-0486

I	INTRODUCTION	PG. 1
II	SCOPE OF REPORT, PROBLEMS & RECOMMENDATIONS	PG. 4
	A. Indian Jurisdiction	PG. 10
	B. Indian Education	PG. 20
	- Demmert Reorganization Plan	PG. 26
	C. Federal Funding of Indian Programs	PG. 31
	- Conflict of Interest	PG. 35
	D. Indian Health	PG. 39
	E. Natural Resource Preservation & Development	PG. 51
III	FEDERAL TRUST RESPONSIBILITY DEFINED	PG. 55
IV	REORGANIZATION & ESTABLISHMENT OF CABINET LEVEL, DEPARTMENT OF INDIAN AFFAIRS	PG. 57

By a joint resolution, Congress established the American Indian Policy Review Commission (AIPRC) to investigate and review Indian policy and case law. The Commission consisted of three (3) Senators and three (3) Congressmen, appointed by the President of the Senate and the Speaker of the House respectively and, in addition, five (5) Indian Commissioners were appointed by the Congressional members of the Commission.

The five (5) Indian Commissioners appointed were:

1. John Barbridge, Tlingit-Haida;
2. Louis R. Bruce, Mohawk-Sioux;
3. Ada Deer, Menominee;
4. Adolph Dial, Lumbee; and
5. Jake Whitecrow, Quapaw-Seneca-Cayuga.

These five (5) Indian Commissioners were not representatives of the United States' American Indian population. The Indians of the Southwest and the West were not represented at all in this selection. This deficiency became the basis of a law suit, the National Tribal Chairmen's Association, et al. v. Abourezk, et al., Civil No. 75-803 (D.D.C. Feb. 19, 1976), which was brought against the American Indian Policy Review Commission.

In this case, the plaintiffs sought a declaratory judgment, that the non-congressional members were improperly selected. That complaint also alleged that the Executive Director, Ernest L. Stevens (Oneida), and the General Counsel, Kirke Kickingbird (Kiowa), were also improperly appointed. The complaint sought to enjoin the Commission from further operations and contended that the establishment of the Commission violated the constitutional precept of the separation

or powers and the appointment clauses. The last contention of the complaint was that the Indian members were inferior officers of the United States within the meaning of the appointments clause and, therefore, could not be validly appointed by Congress.

After argument on cross-motions for summary judgment, a three (3) judge panel held that the Commission's creation was constitutional, and that the powers vested in the Commission are exclusively legislative in nature. Therefore, neither the creation nor the appointments violate the constitutional precepts. The Court further held that the Indian Commissioners, the Director, and General Counsel were properly appointed. Accordingly, the Court granted the defendant's motion to dismiss.

Despite this judicial confirmation, the Commission's membership is still very questionable. Several of the Commission members represent unique Indian situations. The Oklahoma tribes, as represented by General Counsel, have a completely unique historical relationship with the United States. One Commissioner is from a tribe recently restored to federal recognition, again a unique relationship. Commissioner Louis R. Bruce does come from a reservation tribe in the Plains states, but in view of his past interest and employment in the Coalition of Eastern Native Americans, it is apparent he does not represent the Plains Indians. The remaining representatives are from the East coast. This leaves the large reservation tribes virtually unrepresented on a commission designed to review and develop <u>future</u> Indian policy.

It is with that background in mind that the Pueblos present this separate document to the American Indian Policy Review Commission and the United States Congress.

93-440 O - 78 - 47

The Pueblo Indians have not lived an unchanging lifestyle during the past two-hundred (200) years. These people have made accommodations to the changing societies that have intruded on their territories. However, when the changes that have been made are considered, the amazing phenomenon of the Pueblos' desire to retain their culture becomes clear. The Pueblos have developed a unique-mix of European government structure, Christian formalities, and beliefs, and legal forms which were all imposed by conquering foreign governments. Nevertheless, always underlying these accommodations to the outside influences has been the enduring foundation of the Pueblo tradition and culture.

The changes wrought by time and foreign intrusion upon the Pueblo society would have been insurmountable for most societies. Therefore, it is little short of remarkable that even today most Pueblos retain intact their language, religion and philosophy.

II. THE SCOPE OF THIS REPORT WILL ENCOMPASS THE MAJOR PROBLEMS THAT CONCERN THE PUEBLOS. THE REPORT WILL REVIEW THESE PROBLEMS AND MAKE SPECIFIC RECOMMENDATIONS

To begin this analysis, it would be helpful to become oriented generally with the nineteen (19) Pueblo Tribes and their problems. Therefore, the following narrative will illustrate the scope of the problems the Pueblos face and introduce the nineteen (19) Pueblo Indian tribes.

This section will present as briefly as possible, the serious concerns and needs of the nineteen (19) Pueblos as they pertain to the Bureau of Indian Affairs (Interior), Indian Education (HEW), and the Indian Health Service (HEW).

The nineteen (19) New Mexico Pueblos are: Taos, Picuris, San Juan, Santa Clara, San Ildefonso, Pojoaque, Nambe, Tesuque, Cochiti, Santo Domingo, San Felipe, Jemez, Zia, Santa Ana, Sandia, Isleta, Laguna, Acoma, and Zuni. Together they comprise an estimated population of 45,000 Indian people or approximately 11% of the total State population. Their land base is in excess of two (2) million acres. While there are similarities, it is important to note that each Pueblo is a separate and distinct Tribe governed by an independent Tribal Council responsible for the protection, preservation, and administration of land and resources within its reservation boundaries. Like any other Tribe, each Pueblo is responsible for developing its own social-economic programs for the benefit of its people. Unlike many Indian Tribes, the Pueblos have little or no tribal resources. Most Pueblo Reservations contain little, if any, minerals or other natural resources. In light of this, the nineteen (19) Pueblos are, comparatively speaking, more dependent on the BIA, IHS, and the Federal

Government.

The three (3) levels of the BIA bureaucracy are: the central office in Washington, the eleven (11) area offices, located in the field; and, the agencies which are located on/or adjacent to reservations they service. For purposes of this report, the important factors which have hampered the overall development of the nineteen (19) Pueblos will be emphasized. The nineteen (19) Pueblos are located along the 350 mile stretch of New Mexico. Yet, with the exception of the Zuni Pueblo, which is the southern most Pueblo and who has its own BIA Agency, the rest of the eighteen (18) Pueblo Tribes, whose combined population exceeds 35,000 are forced to get all BIA services and programs through two (2) BIA Agencies commonly known as the Southern Pueblos Agency (SPA) which serves ten (10) Pueblo Tribes and the Northern Pueblos Agency (NPS) which serves the eight (8) remaining Pueblo Tribes.

Since the BIA's overall funding formula, for most programs, is based on an agency-to-agency basis, those agencies who serve more than one (1) Tribe are continually underfunded. For example, construction projects for the two (2) multi-tribal agencies are funded at the same level or even lower than an agency serving one (1) reservation. This means whereas other reservations being served by one (1) agency have a road construction or irrigation construction program each year, each of the Pueblos served by the multi-tribal agency only gets one (1) such project every eight (8) to ten (10) years.

This same inequity exists in the service programs. In virtually every program at the two (2) multi-tribal agencies, one (1) or two (2) technicians are required to serve eight (8) to ten (10) Tribes. In short, the BIA funding method, funding inequity, and lack of personnel

seriously hamper tribal self-determination and makes Public Law 93-638 totally unworkable for eighteen (18) of the nineteen (19) Pueblos of New Mexico. How can one (1) Tribe contract an agency program such as credit or realty when that same program must serve seven (7) or nine (9) other Tribes?

Unless the Congress can assist the Pueblo Tribes in obtaining earmarked funds or in providing special provisions in the BIA and/or Interior budgets to increase funding at all multi-tribal agencies, especially the three (3) Pueblo agencies, additional agencies will be required to provide minimal but adequate services. Both alternatives will require additional funding. However, an increase in the base funding at the three (3) Pueblo agencies would be more practical and less expensive.

In addition to the need for increasing the base funding levels for the Pueblo agencies, the nineteen (19) Pueblos have other unmet needs and priorities. Education has continually been a high priority among the nineteen (19) Pueblos. Our greatest and most immediate need is in the area of school construction. Nearly all existing BIA educational facilities are too old, too small, over-crowded, and beyond major repair. In December, 1973, a fire destroyed the school in Jemez Pueblo and since that time classes have been held in temporary buildings. The plan to replace this school, an obvious high priority, is not progressing satisfactorily through established administrative channels. Schools at San Juan Pueblo, Taos, and Santa Clara Pueblo were recently declared unsanitary and unsafe for children. However since, there is no place else to send the children to school, we are forced to use these same facilities, obsolete as they may be. San Felipe Pueblo has planned and worked hard for a new elementary school

for the past fifteen (15) years. The school has continually been high on the funding priorty of BIA; yet, to date, they are still waiting. Their school has been condemned for a number of years. The Office of Management and Budget has continually lowered the priority of the San Felipe School. The design and all preliminary work has been completed. We now need the $3,000,000 to construct the building. A clear need for new school construction is also evident at Laguna, Isleta, and Zia.

To add insult to injury, anticipated funding, in the President's Budget for school operations, will be $1.1 million short of meeting the program needs at the three (3) off-reservation schools in the Albuquerque area. Currently, the nineteen (19) Pueblos, through the All Indian Pueblo Council (AIPC) are contracting the administrative operation of the Albuquerque Indian School. Therefore, adequate funding of that institutional program will be vital to the success of our efforts in maintaining the quality education standards of this Indian controlled school.

There is an ever increasing need for better educated, professional Indian people to improve the general conditions of the Pueblo people. However, the funding level for scholarships in higher education has not kept pace with student demands and the increasing cost of tuition. Since 1969, the nineteen (19) Pueblos have contracted the administration of the Pueblo Higher Education Program from the BIA. To date, we have in excess of 600 full-time Pueblo students at various colleges and universities.

The recent increase in tuition at all state colleges and universities of 8-19% and the increasing number of potential applicants means that at present funding levels many Pueblo students will be

turned away. The Higher Education Program for the nineteen (19) Pueblos is in need of a $500,000 increase over FY 1976, to maintain the status quo in FY 1977.

Law and order, aid to tribal governments, and road construction follow in order of priority. Despite recent increases in law and order budgets, the needs of the nineteen (19) Pueblos are not being met.

The final priority to be summarized is the health care program and the health needs of the nineteen (19) Pueblos. The recent decision of Congress to fund two (2) such needed Indian health facilities in New Mexico on a phase construction basis will go far in alleviating the sub-standard health care of the Pueblo people.

Despite this welcomed news and recent action of Congress in regards to the Comprehensive Health Bill, the Indian people of the Albuquerque area are still many years behind the general population of the United States with a high incidence of influenza-pneumonia, digestive diseases, skin diseases, and an accumulated backlog of conditions, such as, congential malformations, orthopedic conditions, and mental disorders. In addition, there are a large number of surgeries required that have been postponed because of insufficient funds and/or facilities. Finally, many patients require rehabilitative services.

Due to inadequate facilities and inadequate funding, the majority of Indian Health Service programs are inadequate. As a result, the Indian Health Service enters into contracts for the purchase of health services from private sources to meet the needs not met through direct services. Funds for such contracts have never been adequate to provide the full range of services needed by the

Indian people. Only the construction of adequate facilities and increase funding for services will alleviate the health problems of the Pueblo people.

That is a brief review of the Pueblos and their problems. Specific problems and recommendations will now be delineated in the five (5) most critical problem areas. The most critical problems have been grouped under the following five (5) areas:

1. Indian jurisdiction;
2. Indian education;
3. Federal funding of Indian programs and conflicts of interests within the Federal Government;
4. Indian health and social services; and
5. Natural resources preservation and development.

II-A. Indian Jurisdiction.

Since the first Anglos entered Indian land, questions of jurisdiction over that land and the activities on it have arisen. This is still a serious problem on the reservation today.

Early in America's history, this question was discussed in the twin cases of Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831) and Worcester v. Georgia, 31 U.S. (6 Pet.) 515 (1832). Justice Marshall, in the Court's opinion, put the Supreme Court on the record as recognizing the sovereign rights of Indian tribes within the boundaries of their own reservations. These two early cases established the principle that a sovereign status for Indian tribes exists and that a state generally lacks jurisdiction over Indians on the reservation. However, since the 1830's, when the Cherokee Nation and Worcester cases were decided by the Supreme Court, other cases have dealt in part or in whole with the same question of jurisdiction in Indian country. As the cases after Cherokee Nation and Worcester illustrate the broad view Justice Marshall presented in those two earlier cases has been eroded and transformed over time and now there are at least two lines of cases on the question of Indian jurisdiction.

In general, it can be said that the first line of cases, usually is relied on by the states. These cases assumed that a state has the right to control, the right to regulate, and the right to tax on Indian reservations if the Congress of the United States has not specifically forbidden a state to do so. Obviously, the states which have Indian reservations within their borders are anxious to assert the right to control, regulate, and tax in order to satisfy those segments of the electorate that feel Indians and their lands should be taxed to insure that State Treasury will be enriched by such taxation. The State of New Mexico is among the states that argue that they have the right to

control what goes on within Indian country unless the Congress of the United States has told them by a particular legislative act that they have no right to assert such jurisdiction. At the present time, the State of New Mexico is still arguing this position, by legislative, administrative, and judicial action. It should be noted, however, that New Mexico is somewhat unique among the western states in that jurisdictional responsibilities inherent in Public Law 93-280 (P.L. 280) have never been adopted. Therefore, many cases which come from other state courts on the question of jurisdiction over Indian lands may be distinguished from New Mexico cases because most of the other states in the west are P.L. 280 states.

The Pueblos of New Mexico disagree with the state's position on jurisdiction over Indian lands and contend that a different and stronger line of cases substantiates their belief that a state may assert jurisdiction only when a treaty or act of Congress specifically allows that the state jurisdiction over a particular act or over particular land. This second line of cases dates back to Cherokee Nation and Worcester and does not conflict with the fundamental principles found in those earlier decisions. Of course, the State of New Mexico's presumption of its jurisdiction in particular situations over Indian lands must be predicated on the departure from the Marshallian viewpoint as expressed in the 1830's. Therefore, it can been seen that the position of the nineteen (19) Pueblos with regard to legal jurisdiction on the Indian reservations is much closer to the pronouncement of the Supreme Court 140 years ago. However, the Pueblos assert that federal judicial or legislative action is mandated to clear up this conflict between the state and tribe.

The fundamental premise of the position held by the nineteen (19) Pueblos in disagreement with the State of New Mexico and its

presumption of jurisdiction is that the only legitimate way which a state can claim jurisdiction is through a specific act of Congress which allows such jurisdiction or through the provision of a treaty. The viewpoint of the nineteen (19) Pueblos is that there are no treaties concerning the nineteen (19) Pueblos which allow the State of New Mexico jurisdiction; therefore, any jurisdiction which the State of New Mexico claims over the nineteen (19) Pueblos must come through a specific act of Congress. The specific acts of Congress which allow the state jurisdiction generally have been limited to three (3) areas.

First, the states have been allowed varying degrees of criminal and/or civil jurisdiction under the provisions of P.L. 280. New Mexico has never attempted to take on the responsibility which P.L. 280 requires along with the grant of jurisdiction allowed under P.L. 280. At this point, the jurisdiction over any Indian tribe under P.L. 280 by the State would require an affirmative vote of that tribe to agree to such jurisdiction. Such a political affirmation is very unlikely and the extension of P.L. 280 to the State of New Mexico is essentially a moot issue.

At this point, it should be noted that U.S. Senate Bill 2010 would repeal P.L. 280, if enacted into law. Therefore, the possibility that P.L. 280 will be repealed or modified greatly does exist and, if it occurred, it would affect jurisdiction cases from other states and and in the federal system. That repeal would strengthen the tribes' argument that New Mexico has no right to assert jurisdiction.

The second category by which the State of New Mexico could assert jurisdiction over Indians or Indian lands within an Indian reservation would be through a specific act of Congress which allows

such control by the State. The most important is the Congressional Act that grants permission to the state to tax the oil and gas production on reservations. 25 U.S.C. § 398 allows for the taxation of the royalties paid to a tribe for oil and gas production by the state. This kind of specific control of a natural resources by a specific federal legislation is lacking with regard to all other kinds of Indian tax matters. Therefore, the category of specific acts of Congress allowing assumption of jurisdiction by the State over Indian land is a very narrow one indeed.

The third kind of jurisdiction granted by Congress is in a specific statute, 25 U.S.C. § 231. The jurisdictional grant concerns what might be referred to as health and public welfare. The jurisdictional grant for health is provided in vaguely worded statutes which grants the State jurisdiction for purposes of the general health of the community. These statutes allow states to go on Indian reservations and assert some kind of jurisdiction in order to provide greater protection from health problems for the community. Until recently, in New Mexico, there was the 1926 Pueblo Land Condemnation Act which allowed the egregious use of state police power under the guise of public welfare to interfer with Indian jurisdiction over their lands. The state assumed such jurisdiction in order to establish rights-of-ways for roads, utility lines and the like. However, recently, the 1926 Pueblo Indian Land Condemnation Act was repealed by Congress and signed by the President. Therefore, that specific statute allowing jurisdiction of some kinds over parts of Indian lands in the name of public welfare is no longer on the books.

At times even without a specific congressional statute granting jurisdiction to the State of New Mexico, the State Legislature nevertheless continues to consider and, on occasion, even will pass laws

which directly or indirectly asserts jurisdiction over Indian lands. For example, in the current sessions of the New Mexico State Legislature, a number of bills have been considered that are in this category.

The State Legislature lacks a basic understanding of the principles of the Indian tribes' right to assert jurisdiction. That fact is exemplified by a review of some recent state legislation. During the 1976 session, a bill was enacted into law that would allow the state to tax the leasehold interests of non-Indians on Indian land. Any legislative attempt to establish legal jurisdiction is very questionable. However, this back door method of the State of New Mexico forces tribes to use their limited funds to fight the state in court. Also, in the current 1977 session, the state has again offered some weak legislative bills to assume jurisdiction on the Indian reservation. The state is trying to halt the development of a race track on Indian lands. The Pueblos are working hard to prevent the bills enactment. However, if a clear and concise statement would be developed by the federal government on Indian rights to control Indian land, these kinds of back door jurisdiction bills would be eliminated. The Pueblos strongly support and recommend that the federal government live up to its trust responsibility obligations and formulate this definition.

A second, even more disturbing bill, is in the State Legislature now will interfere with tribal economic development and self-determination if passed. This bill prepares to remove the state license from any individual who is doing business with any entity on the reservation that is not controlled by the state. This bill would hamper any business or businessman who wanted to start a reservation based business.

Once he established his business, his state license would be revoked. The Pueblos content that the State of New Mexico is absolutely without jurisdiction to carry out this legislation. The Pueblos further submit that the federal government, by allowing such legislation to be enacted, has denied federal trust responsibility obligations entirely.

There are a number of problems which confront the Pueblo Indians at this particular time concerning jurisdiction. These are not questions of a theoractical nature but truely practical ones.

As alluded to before, there is the considerable question of the conflict between the State of New Mexico and the Pueblos concerning the taxation of Indians and non-Indians on the reservation. In the last few years, a number of cases in state and federal courts have essentially decided the question of state taxation of Indians. These cases hold that Indians who live and work on the reservations are not subject to state taxes. In addition, the Courts hold that Indian corporations are not subject to state taxes and control. However, the problems concerning non-Indian persons or corporations doing business on Pueblo lands still remains, particularly, if those persons or corporations are licensed and taxed by the Pueblo itself. At this point, the State of New Mexico is continuing in its efforts to tax, license, and control these activities on the reservation. The Pueblos believe that such interference with tribal self-government and intrusion on tribal lands by the state is not only undesirable, but essentially illegal.

The New Mexico Indian Tax Study Commission (NMITSC) has done a study on state statutes, the federal law, and the practices among the Pueblos that affect taxation and licensing. That study entitled, "A Handbook on Tribal, State, and Federal Taxation", is incorporated herein by reference.

The next problem still confronting the Pueblos concerns both the stae and federal government. There is continued confusion

in the Pueblo community on the status of tribal jurisdiction over non-Indians within their borders. This conflict concerning jurisdiction, plus those provisions of the Major Crimes Act that severely limit the subject matter jurisdiction and penalties which a tribal court may legally impose, almost totally eliminates the exercise of tribal sovereignty rights on the reservation. The problem faced by the Pueblos of New Mexico with regard to civil and criminal jurisdiction over non-Indians on the reservation is crucial. Coupled with that crucial issue is the issue of state acceptance through comity of tribal court decisions and judgments. While the tribal courts generally accept state court decisions and judgments, there is no reciprocity on the part of the state. This issue is especially crucial when Indians on the reservation are in need of services which the state provides for its residents. The state does not accept the final decisions of commitment proceedings from a tribal court. Therefore, the state will not accept Indian citizens of New Mexico into mental institutions, based on holding, found in tribal courts. In this way, the State of New Mexico is denying services to its Indian citizens by its failure to honor those tribal Court decisions.

There are other areas of conflict regarding jurisdiction between the Pueblo Indians and the State of New Mexico. Notable among these are the control of non-Indian developments on Indian lands and zoning on the reservation, particularly, if the reservation is contiguous to a metropolitan center in the State of New Mexico. In both these cases, there has been continued attempts to control Indian lands through legislating state statutes. It is obvious that some sort of cooperation between the sovereign tribes

and the State of New Mexico is necessary in order to adequately control and govern these developments which are in proximity or adjacent to cities but nevertheless are on Indian lands. It is also obvious that only by some cooperation and agreement can an issue of this sort be resolved to the best interest of all parties involved. There is no conceivable way the Pueblos will cede any of their jurisdiction rights to the state. Nor will they allow the sovereignty of the tribes to be infringed upon under the guise of county or city regulations which extend to the reservation by use of police powers for the general welfare.

A further problem concerning jurisdiction is the affect of the environmental protection act regulations required of the state and federal governments and their specific applicability to Indian lands. Thus far, the provisions of the National Environmental Portection Act (NEPA) have not been applied to the reservation. However, environmental protection is necessary on Indian reservations especially as non-Indian developments are proposed and accepted by tribes. The Pueblos of New Mexico do not wish to have the provisions of NEPA applied to them if the restrictions contained in that Act will also apply. It is essential that a mechanism for fully considering the environmental, as well as social and economic, affects of development on Indian lands be developed. To accomplish such environmental protection will take a different attitude on the part of the state and federal governments in order to allow the tribes the control over developments which their sovereignty deserves while protecting the land base from unreasonable incursions brought about by non-Indian development.

In all these matters of jurisdiction, as well as in one other, the U.S. Attorney for New Mexico has not been a particularly affective

93-440 O - 78 - 48

voice for the Indians and has offered only token help regarding these jurisdictional questions. The help which the U.S. Attorney's office has offered regarding jurisdiction, while sporadic, has been more effective than the help from the U.S. Attorney's office for New Mexico regarding crimes on the reservation which are outside the jurisdiction of the tribal courts under federal law. There is growing concern among the Pueblos that crimes committed on the reservation whether between Indians or between Indians or non-Indians do not result in the proper disposition of those cases. In a number of cases, there has been no chart file and the confidence of the tribal governments is considerably lessened on those cases in which the U.S. Attorney is involved.

II-B. Indian Education.

When Pueblos consider conditions that will in the future transform their society, the most prominent condition they consider is the education of their children. Education was one promise to the Pueblos of New Mexico when the United States made treaties with them which resulted in the loss of Indian lands and resources. In the 130 years that have passed since those agreements were made, the United States has failed to fulfill that promise. One breach of that trust responsibility resulted in inadequate, overcrowded boarding schools far away from the Pueblo communities which forced assimilation on the children, nearly destroying the Pueblo culture in the process. These boarding schools were the sole means of Indian education beyond the sixth (6th) grade until 1955 when Pueblo students began to attend public schools near their homes. These schools still do not meet the special needs of the Indian child. While these schools do allow the child to live at home and remain in the family circle, they do not provide adequate counseling in adjustment to the Anglo society. The cultural history, language and philosophy of the Pueblos are totally ignored while behavior that indicates assimilation is rewarded.

To exemplify the educational inadequacies involved in the Indian education systems, the problems at one school will be developed.

The Albuquerque Indian School (AIS) faces immediate problems related to the condition of the school facilities. The buildings on the campus are inadequate and of uninhabitable quality. The All - Indian Pueblo Council (AIPC) recommends that sufficient funds be made available for total building modernization and renovation to provide a satisfactory educational environment. Among the current problems

are structural defects, poor lighting, and other interior design problems. (I.e., drapes, paint, floor covering, plumbing, heating facilities, and floor space arrangements).

Children leave this inadequate and deplorable educational atmosphere totally unprepared to function in the Anglo society; yet, they feel estranged from their Pueblo community. Realizing this deficiency, the government has funded many advanced educational and vocational institutions. These institutions have, however, been entrenched with the same weaknesses of the secondary and elementary school plans. One such vocational school is now located in Albuquerque, the Southwest Indian Polytechnical Institute (SIPI). In 1973, there was an enrollment of 900. At that time, the consensus of enrolled Pueblo students was that the school does not serve the needs of Indian students. The curriculum was planned without Pueblo consultation or student involvement. Governmental investigation and analysis is necessary to establish guidelines for long-range higher education plans. This should not be accomplished without consultation of Pueblo educators, parents and students. Also, a comprehensive youth counseling program is needed to aid in developing career goals, preventing dropouts, and alleviating personal problems which have eliminated Indian youth at an early stage of their education.

In addition, BIA college grants should be increased and not be cut off at the end of the second year. The college grant requirements should be flexible enough to bend with Indian youth needs such as relaxation of required class-loads in certain situations.

A recent advancement in the Indian education process was the headstart program. That program, however, fails to recognize the extent of the Indian educational problem and it must be expanded to meet

that need.

Some Pueblos now have "Headstart" programs attended by children ages three (3) to five (5). These programs' successes can at least be partially gauged by the children's new fluency in English, which is taught in bi-cultural classes as a second language. This now recognizes at least some of the special cultural needs of the Pueblo child. Although, the All Indian Pueblo Council (AIPC) Headstart program has been highly successful, the program could be greatly enhanced if adequate funding for continuation and expansion was provided. The Pueblo headstart program suffers great losses of trained personnel because the program salaries cannot compete with salaries in public schools or even the salaries of other federal programs. Adequate funding must be provided so that competent professional and staff members can be retained. Until that funding is made available, the quality of headstart programs will continue to be affected by the lack of trained personnel.

The federal regulations that restrict headstart participation by income eligibility requirements are not reasonable for Indian children. This is a breach of the federal government's trust responsibility to provide education for all Indian children. The Pueblo Indian child has special educational needs. Since much of the Pueblo culture is retained, many children do not speak English as their first language. They need an early start so that they are ready to enter public day schools. Moreover, the Indian parents are often not able to help their children develop the skills they will need to cope with white-oriented public day schools. This problem reflects in part the past failure of BIA schools plus the parents' desire to retain their Pueblo traditions and lifestyle.

The Indian child who is removed from the secure life of his or her Pueblo into the alien white world without adequate preparation many times suffers academically the entire time of his or her education. Often that child does so poorly on basic skills tests that he or she is labeled as having a learning disability. It is well documented that often a child who is unjustly labeled as slow or as having a learning disability will in fact live up to the expectations of that label despite actual ability.

The All Indian Pueblo Council (AIPC) advocates that headstart programs must be provided to all Indian children regardless of income eligibility. The Indian child has very special cultural and educational needs that can be handled only by a preparatory education program before actual schooling begins in white day schools. The Congress should advocate a legislative change of headstart eligibility requirements to meet this unique need that falls within the special trust responsibility of the federal government to the Indian child.

Another educational advancement of recent years has been Computer Assisted Instruction programs. This allows the expertise of an educational specialist to be transmitted to a great number of students.

The Computer Assisted Instruction (CAI) program of the All Indian Pueblo Council (AIPC) is now at a point where things are progressing at a very intense but favorable rate.

The goal of this program is to assist Pueblo Indian people so that they will have a better than average chance to compete with the non-Indian on the very competitive basis now present in any vocation or in higher education. There are many other possibilities that computer technology will offer, not only in education, but also in

management and health fields.

The Computer Assisted Instruction Program (CAI) (Grant No. G00-76-04352) is currently most handicapped by severely limited funding. The long-range goal of this program is to expand the use of Computer Assisted Instructed (CAI) to all the schools located on the nineteen (19) Pueblo reservations. This goal was approved by the Pueblo Governors at their November meeting in 1975.

Congressional attention must turn to the valuable services that the Computer Assisted Instruction (CAI) programs perform in the Pueblo communities. The All Indian Pueblo Council (AIPC) recommends that adequate direct funding should be provided for the continuation and expansion of this highly successful and innovative program.

Computer program costs are increased dramatically by the expense of telephone transmission of data. Other methods must be found and explored to reduce this financial outlay. In order to make Computer Assisted Instruction (CAI) more accessible, the Council recommends further that Congress revives the 1974-1975 NASA/HEW Satellite Experiment Program, which was used to provide health care to remote areas in Alaska. Once this Program is renewed, it should be expanded to provide Computer Assisted Instruction (CAI) to remote Indian schools, like those of the nineteen (19) Pueblos in New Mexico, as well as continuing to provide health care as it originally did in Alaska.

The major problem in Indian educational programs is acquiring and retaining trained staff and professionals because of severe limitations on funding for salaries. Quality education will only be obtained once Congress recognizes that problem and provides funding for proper salaries.

The lack of trained professionals is intensified by the

inadequate number of trained Indian professionals. A program that educates Indian professionals in all areas of Indian services must be planned and implemented. Vocational and technical training as well as professional training are absolutely imperative. The need is not for traditional white training but must be instead education focused upon the special needs of the Pueblos.

As adult Indian parents, we realize BIA schools have failed in the past and we now want something better for our children. The Pueblos must be allowed to create a bicultural educational system that is meaningful to them.

To guarantee proper education, the control over tribal schools must be vested in the tribal government and that government should be solely recognized as the community agent to deal with federal and state agencies. To further this goal, Indian tribes must be supported and assisted fully by the federal government in their attempt to gain control over the education of their young people. Wherever cooperation with state government is required, the federal government should support the tribal position even if it requires withholding of federal funds for non-compliance with reasonable tribal requests.

The All Indian Pueblo Council (AIPC) advocates the establishment of an Independent Pueblo Controlled Education Agency. It is only through a bicultural education that Pueblos will be in harmony with the Anglo society while retaining respect for their own heritage and culture.

THIS MATERIAL IS A DISCUSSION OF THE PROPOSED DEMMERT REORGANIZATION PLAN AS IT RELATES TO THE PUEBLO PEOPLE. THIS IS A CRUCIAL CONCERN OF THE PUEBLOS

I. INTRODUCTION

The All Indian Pueblo Council (AIPC) understands the proposed Demmert reorganizational plan, as analyzed by our office, to contain two (2) phases as follows:

A. There will be immediate reorganization of the central office. This action involves re-assignment of existing personnel.

B. There will be recommendations for a more comprehensive reorganization of education programs involving:

1. Line authority relationships between the Director, Education Programs, and local schools; and

2. Direct funding to local schools.

II. IMPACT/IMPLICATION (AIPC)

A. AIPC understands that the reorganization plan allows the central office to delegate control of educational programs to the local tribal organizations, thus enhancing the concept of Indian self-determination.

B. For too long, the Indian public has hoped for and insisted that it assume more control of its programs. The current reorganization plan demonstrates initiative, by Dr. Demmert, to finally put into practice what has been recommended for so long.

B. For too long, the Indian public has hoped for and insisted that it assume more control of its programs. The current reorganization plan demonstrates initiative, by Dr. Demmert, to finally put into practice what has been recommend for so long.

C. The All Indian Pueblo Council believes that the plan must become operational to allow the Indian community, as well as the Bureau of Indian Affairs (BIA) to weight its merits on a more objective basis. However, we recommend the Education Committee, National Tribal Chairmen's Association (NTCA), be given an opportunity to review all recommendations and evaluate the implementation of the direct funding and line authority aspects of the reorganization.

D. The immediate staff reorganization establishes better capabilities for policy planning, personnel services, and other support activities in the Education Program Office. Further, it appears to specify and clarify accountability for all education program functions; this is particularly true for elementary, secondary and post-secondary education activities. Thus, AIPC views the plan as a total effort at streamlining administrations and facilitates more efficient program operations.

D. AIPC believes that proper implementation of the new education program does not jeopardize tribal authority but rather enhances and expedites tribal local control. The reorganization offers another option for local control. For tribes, which choose not to contract, direct funding allows the local tribal authority over budget allocation. To a great extent, practical administrative experience can be gained through the direct funding; such experience can be applied to a contract operation if desired by the tribe.

F. The second issue of reorganization concerns an expanded comprehensive program development, specifically dealing with the manner by which schools are funded and the line of authority relationship between the Office of Education and the local school(s), directly involving tribal governing authority.

G. We view the reorganization dealing with direct funding of schools as compatible with P.L. 93-638.

H. We understand the proposal to lend itself to local school and tribal authority input with respect to direct funding and line of authority. AIPC supports the principles of the new reorganization of education programs and the Office of the Director, Education Programs, BIA. It is our observation that the authority over education has moved closer to local control through the proposed changes in

in line authority and funding proposed by Dr. Dennert. This move is consistent with our objective of maximum tribal authority in education planning and development.

In the past, the Indian community has not been solicited in the planning of "their" schools. A specific example of how the Dennert Reorganization Plan would help to implement the section on school construction and the intent of Public Law 93-638 would be as follows.

A. Since World War II, the Pueblo people have waited impatiently for new school construction to meet the needs of the post war generation children. These schools have not been built.

B. What construction has been done, has been of temporary nature (i.e., barrack like dormitories, mobile classrooms).

C. It has been the continued position of the Pueblo people to value and keep the school within the local community even when these schools are operated by outside institutions.

Therefore, we recommend that:

A. Politics, external and internal, be removed from the Bureau's setting of school construction priorities. As past victims of this process, we feel that construction must be based on actual need with long-range planning.

Frequently, smaller tribes, without the resources and/or ability to become involved in direct lobbying, have suffered serious consequences to their children's educational and social welfare.

B. Another aspect of the previous negative, political influence of being small, is that "multi-tribal" agencies must compete with those agencies serving only one group. This leads to the smaller tribes competing with one another for a minority portion of costs that have already been divided.

C. Too often, the Bureau have set school construction priorities without actual field analysis and community input. We recommend that this be stopped.

D. School construction, because of its immediate and long-range impact, must reflect tribal member input from the initial setting of needs to the final Congressional funding request.

E. The Bureau must use the Indian community as a resource in gaining a Congressional mandate in developing a school contruction program, that is, of, by, and for the Native Americans of this generation and those children to come.

II-C. Federal Funding of Indian Programs and Conflicts of Interests Within the Federal Government.

The current process of equity funding within the Bureau of Indian Affairs (BIA) is absolutely inequitable when compared between all Albuquerque area agencies. The key factors used for distribution of BIA funds are totally in error. The population figures and school pupil figures are not correct and, as such, these distort the entire funding formula.

The Pueblo Indians are irreparably damaged by this funding process. The Tribes feel that it is mandatory that the Bureau complete an accurate analysis of actual needs and the total number of Tribes served by the Albuquerque Area Office.

Some preliminary analysis has been done in this area and based upon that the current distribution indicates that there is inequitable funding in the Southern Pueblo Agency (SPA) programs. This can be illustrated by the distribution for the SPA Law and Order Program. The Southern Pueblo Agency has one-half (1/2) of the Indian population included in the Albuquerque office's area. Despite that the Southern Pueblo Agency received less than one-third (1/3) of the total funds distributed, the actual funding level was 31% of the total. The inequity becomes obvious when the total distribution is broken down to per capita figures. For the SPA, the per capita distribution is about $39.72 whereas other Tribes received $123.00 to $148.00 per person.

The Southern Pueblo Agency is not a single Tribe agency, but in reality is an agency that serves ten (10) Pueblo Tribes. That fact must be considered when funding allocations are made. In addition, census figures from 1964 or 1968 are currently being used to base funding on. These are far outdated. In 1968, for example, the

Acoma Pueblo census count was 1900, but at present, that Tribe's population is 3200. These outdated statistics distorts all funding by over 1300 persons who are not included when base funding amounts are determined for this Tribe.

The Pueblo Indian Tribes recognize that much of the current funding problem is based upon the failure of the federal government to delineate funding guidelines for multi-tribal agencies. The Pueblos submit that much more emphasis must be placed on the needs and funding of the single tribal agency versus the needs and funding of the multi-tribal agency unit.

The continued failure to recognize this problem will cause severe handicaps to the Pueblos' progress toward self-determination. The Pueblo Tribes are most seriously affected by the limited funds available for contracting under P.L. 93-638. Current funding is based upon Agency units and not the number of tribes that any particular Agency unit serves. Unless there is federal recognition of this problem and provisions for increased base funding, the benfits from P.L. 93-638 will be non-existent for the eighteen (18) Pueblo Tribes served by the Northern Pueblo Agency and the Southern Pueblo Agency.

In equity funding today, the single agency gets more per capita funding than the multi-agency. There are alternatives available and Congress must consider at least the following:

1. Funding of all the Pueblo Tribes as single tribal units. Thereby, creating eighteen (18) separate tribal agency units. This would provide equal per capita funding.

2. Current equity funding could be continued, but money allocated to multi-tribal agency units would be increased to the levels of single tribal agency units.

3. A final alternative would be for all Pueblos to contract directly as Zuni is now doing.

A second problem area in funding is the subcontract through either the state or county. The Pueblo Indians would recommend amendments in this funding procedure so as to allow tribes to contract directly with the federal government. Direct funding would allow more money to funnel down to programs because of reduced administrative overhead. Secondly, the day-to-day hassle with the prime contractor would be eliminated. Finally, and most importantly, the state and/or county imposed rules and regulations would be removed. The Tribes realize that federal guidelines would still be in effect, but many of the funding restrictions that they currently are strapped by are state and county restrictions. For example, money received from the primary contractor is often earmarked. The tribe or organization is then forced to spend the money for the program it is earmarked for, regardless of actual need. If the funding was direct, the money could be allocated on the basis of actual need.

To further illustrate the gross reduction in funding through the subcontract method, consider the FY-76 State of New Mexico method used to earmark funds for Manpower Indian Subgrants:

Step 1 - A percent of the total grant is earmarked for Indian Subgrants.

Step 2 - A 20% maximum deduction of the balance from Step 1 for administration costs.

Step 3 - Deduct 10% of the balance from Step 2 for state services to walk-in Indian clients.

Step 4 - Available funds remaining must be divided between the All Indian Pueblo Council (AIPC) and the Navajos.

Step 5 - The state then develops pro-rata earmarks for the seven (7) "AIPC Counties" using 1974 BIA reservation population figures. The same is done for the Navajos.

The original fund is reduced in Step 1. In the FY-76, the reduction was 10%. Then, Step 2 is a 20% deduction for administration cost and, then, the state deducted an additional 10% for the state offices' service to Indians in Step 3. At that point, the available funds have been reduced by 40% of the original amount and have not reached one (1) single Indian Tribe.

Based upon this evidence, it is apparent that direct funding to Tribes and organizations as prime sponsors of the Manpower Program is the only effective method available to efficiently utilize federal funding.

93-440 O - 78 - 48

CONFLICTS OF INTEREST WITH AND WITHIN THE FEDERAL GOVERNMENT

A number of recent examples make the Pueblos of New Mexico very aware of the conflicts of interest they have with the U.S. Government and, particularly, the Department of Interior. These conflicts are inherent in having to deal with the Bureau of Indian Affairs which is but one part of the Department of Interior. Often due to internal conflicts, the Bureau will fail to meet its trust responsibilities to Indians fully because the Department of Interior also has under it jurisdiction agencies like the Bureau of Land Management which often comes in direct conflict with the Indian tribes. The resulting problem from that situation is that the Bureau of Indian Affairs often breaches its trust responsibility obligation to the tribes. A notable example of this breach is the case of a non-Indian development on the land of the Pueblo of Tesuque.

The Bureau of Indian Affairs affirmed a ninety-nine (99) year lease of 5,400 acres of the Tesuque Pueblo lands. That lease approval led to the Davis v. Morton, 469 F.2d 593 (10th Cir. 1972) decision. The Court held that such action required National Environmental Protection Act (NEPA) compliance by the Department of Interior and the development was enjoined in January, 1973 until an Environmental Impact Statement (EIS) was prepared. The final EIS was prepared, but the Tesuque Pueblo, at that point, asserted that the lease was invalid and that the Bureau had failed to meet its trust obligation in allowing that lease to be agreed to in the first place. The Tesuque Pueblo further asserted that the violations, subsequent to the lease transaction in BIA supervision of lease compliance, are of such magnitude to invoke cancellation of the lease provisions.

Other conflicts occur in funding of one Pueblo agency as opposed to another. This is discussed in detail in Section II-C of this report. The conflicts of interest with the Bureau of Indian Affairs are not restricted to those discussed above. These conflicts occur on a day-to-day basis as the Pueblos of New Mexico assert that the federal trust responsibility must be met in the many areas in which Indians are entitled to federal services. Natural resource development, the conflict with other federal agencies, the health and welfare of Indians on a reservation, and the need for legal assistance by the Indian tribes are only a few of the more overt examples of the conflicts which the Pueblos of New Mexico have with the Department of Interior concerning the trust responsibility of the federal government.

The Wheeler-Howard Act or the Indian Reorganization Act of 1934 causes a number of unnecessary conflicts with the Bureau. The problems with the Wheeler-Howard Act are even more obvious when the number of statutes contained in 25 U.S.C. are examined. The laws regarding Indians in this country and the trust responsibility of the federal government to those Indians are long out of date and needs a complete overhaul. Many of the laws are concerned with problems which have long since past from the scene. At the same time, other more serious problems have arisen and the antiquated laws of 25 U.S.C. are not usuable in these new contexts.

In the Wheeler-Howard Act, two particular problems annoy and offend Pueblos of New Mexico. First, the requirement that the constitutions and ordinances of the tribe, at least in most circumstances, be submitted to the Secretary of Interior for approval and review. The Pueblos of New Mexico contend that, if they want written constitutions, they are quite capable of drafting them and, if they do

draft constitutions, they are quite capable of filing a copy with the Secretary of Interior, but they see absolutely no reason for this approval power of the Secretary of Interior to be used to make any changes or to delay any constitutional ordinance passed by an Indian tribe. Secondly, the Pueblos of New Mexico see no reason for Secretarial approval for legal counsel. The Pueblo Tribes of New Mexico do not believe adequate legal assistance comes from the U.S. Government in matters where there is no conflict between the federal government and the tribe. In addition, they believe there are times when independent legal counsel is absolutely necessary for the tribe to maintain its position of sovereignty. The Secretary of the Interior, by having the right to veto or approve of independent legal counsel for a Pueblo tribe and by delaying that decision for months, is a direct denial of tribal sovereignty and, moreover, is not in keeping with the federal government's obligation through trust responsibility.

In general, whether delaying the approval of legal counsel or holding up a tribal constitution or any other activity, the continual frustration of the Pueblos of New Mexico, with their trustee, is not conducive to the settling of questions which the tribes have with other entities in this country. Of all the entities which impinge on Indian tribes, the most helpful and least frustrating entity should be the federal government. However, at this point in time, the continual problems with the BIA at every level, whether petty or very important, drain the energy resources of the Pueblos and make it difficult for them to deal with other federal agencies affectively. This constant conflict also prevents the tribes from protecting the natural resources found on their reservations. As a result, the

tribes must often engage in discussion or litigation with the State of New Mexico in order to settle jurisdictional questions. Therefore, the conflicts with the BIA and the Department of Interio cause serious handicaps. This conflicting exercise of the federal trust responsibility with the Indians must be settled in some better fashion than that now existing in order for the Pueblos to continue to exercise their sovereignty and deal effectively with the forces outside the reservation which would materially affect the health, social and economic welfare of the Pueblos.

II-D. Indian Health.

The nineteen (19) New Mexico Pueblos have continually expressed serious concern over the failure and inability of the Indian Health Service (IHS) to provide health care to the Indian people within the Albuquerque area.

The health of Indians in the Albuquerque area is still significantly below the level of the general population. Many of the problems with IHS were disclosed in an interview with Mr. Frazier of the Albuquerque Area IHS office. He indicated the major health problems in Albuquerque were as listed below:

1. Alcoholism;
2. Gall Bladder;
3. Hypertension; and
4. Diabetes.

The above are listed in order of incidents.

Mr. Frazier indicated that the major problems IHS encountered in the provision of health care to his Pueblo clients were:

1. The cultural differences that affect provisions of health care. This involves both the spiritual and religious beliefs of the Indians.
2. Inadequate funding for contract care.
3. The current staff is not sufficient to provide adequate health care. If adequate services were to be provided, the current staff would have to be doubled.
4. Need for more community health representatives (CHR).
5. The ambulance shortage on the reservations.
6. Paramedic programs and on-reservation clinics must be established.
7. Nutrition programs must be improved and expanded.

8. Adequate community sanitation must be provided.

9. Traditional Indian medicine practices must be incorporated into the health services provided.

10. Mental health care must be improved.

11. Urban Indians' health care must be considered.

12. Transportation must be provided for clients to get to health care centers.

Based upon past experiences of the Pueblo Indians with the totally inadequate services provided by IHS, the totally inadequate facilities of IHS and the ramifications that the recent Lewis case will have on provision of services, it is apparent that a revamping program is necessary. The National Health Insurance Plan, however, is not the answer and will be strongly opposed by the Indian people as a denial of the federal trust responsibility that is owed to them.

In order to illustrate the gravity of the current IHS program deficiencies, the crisis in contract health services will be outlined.

The provision of comprehensive health service for Indian people within the Albuquerque area is accomplished in three (3) ways. One is by means of "direct services" provided through Indian Health Service facilities and staff. Another is through the identification and use of "alternate resources" where the Indian people are entitled to and receive care by virtue of their being a citizen of the community and state in which they reside. The third component of the total program is the purchase of health services through "contracts" to meet those health needs not met through direct services or alternate resources.

Funds for contract Health Services in the Albuquerque area

are not adequate to provide the full range of services needed by the Indian people to supplement direct care and available alternate resources. With present funding levels, the service units have practically limited their contract health program activities to provision of emergency services and performance of a minimum of elective procedures. Service Unit and Area Indian Advisory Boards have recognized this gap in provision of services and have repeatedly requested of the Indian Health Service and their Congressional delegations that additional funds be provided for the program. In the past, annual allocations for contract Health Services have been made on previous experience and do not reflect the current total needs of the program as identified by Indian leadership, by registers of unmet needs and deferred services, and the Resource Allocation Document. There are severe limitations on services provided through Indian Health Service direct care facilities and staff, necessitating an ever-expanding utilization of contract care resources. The present unmet needs for contract Health Services in the Albuquerque area are identified as follows:

1. The Albuquerque area in the first six (6) months of FY 1976 experienced an increase in average daily costs in contract hospitals of approximately 26 percent. The actual increase in available funds (1976 over 1975) amounted to a 0.84 percent increase.

2. Costs for physician services increased 16 percent over the same period of time. The actual increase for physician services was also 9.84 percent.

3. A unique feature of the Albuquerque area is the contract with the Bernalillo County Medical Center wherein the IHS must reimburse the hospital at the end of the year the difference between what was paid to the hospital during the fiscal year and what their final average daily cost figure was.

4. The Albuquerque Area IHS has been unable to determine a fiscal year per diem figure which can be relied upon. Example: On July 1, 1975, the per diem cost was $223.00; on September 30, 1975, it was $257.00 (estimated); on January 31, 1976, the rate was $266.00 (estimated); and the February, 1976 rate was $268.00 (estimated).

5. It may be anticipated that the per diem rate at BCMC could reach $275.00 by the end of FY 1976. If this rate is reached, there would be an increase of $220,412.00 in FY 1976 over FY 1975, assuming that the days utilized would remain constant.

A further costs increase will result from the recent Court Order (March 29, 1976) requiring the Albuquerque Area IHS to include all Indians in the State of New Mexico which includes off-reservation Indians under the contract Health Service program. This increase the population to be served by at least 33 percent.

The combination of all these factors dictates that the level of services will be reduced significantly unless additional funds are made available to the Albuquerque Area Contract Health Service Program.

The dollar impact of the recent Court decision in the Lewis case has not yet been determined. Without providing services to non-reservation Indians, the additional money required to maintain the same level of care in 1977 as in 1976, is $250,000.00 This, however, would be significantly increased if all urban Indians were to receive health care.

One excellent example of an Indian controlled program that provides adequate services and treatment would be the All Indian Pueblo Council (AIPC) Alcohol Program.

Indian problems with alcohol are a major concern to the Pueblos. The Tribes, therefore, supported the development of the AIPC Alcoholism Program. This Program is well-organized and has made considerable

advancement in the short time it has existed.

The program's designs and goals are outlined here to illustrate the well run and efficient planning of this Indian controlled program. The initial success of this Program re-emphasizes the importance of continuing self-determination policies within all Indian programs. Only through Indian controlled programs will innovative practical assistance be provided to eliminate the governmental, social, and cultural problems which confront the Pueblos and all American Indians.

The Alcoholism Program consists of a Drop-In Center and Star Lodge Rehabilitation Center. The Drop-In Center consists of: Program Director, Two Counselors, One Counselor Aide, and a Secretary. The primary job is to help clients in courts, AIPC has established liaison, within the court system, with our City, County Probation, Legal Aide, and Centro Legal.

The Program assists clients in courts and transporting them to Treatment Centers, within the State and, at times, out of State. AIPC encourages and helps clients to continue their education. The Program works closely with D.V.R. Division of Vocational Rehabilation, to train the client for the job he or she is qualified for.

The Program also provides different types of therapy, One to One Counseling, Group Therapy and Family Therapy, to include a follow up. At this present time, AIPC is working very closed with D.W.I., Driving While Intoxicated School.

Also, the Program is utili[illegible] all resources available in order to deliver satisfactory services to clients.

STAR LODGE REHABILITATION CENTER

The Center is located at 1010 - 1020 Tijeras, N.W., in

Albuquerque, New Mexico. It is staffed with a Program Coordinator, Two Counselors, Four Counselor Aides, Two Cooks, and a Secretary. The basic philosophy is that the alcoholic resident must assume responsibility for his own recovery. That he must have the desire to live a life of sobriety. Sufficient motivation for this is indicated when the alcoholic is willing to accept the guidance and assistance which the staff and members of his rehabilitation team think is best and deemed appropriate.

GOALS OF TREATMENT:

1. Interruption of the individual drinking pattern.
2. To have clients communicate with one another through group activities.
3. Motivate clients to seek support at their local communities and become a respected member of their communities.
4. Motivate clients to have positive attitudes toward daily problems.

TREATMENT AT LODGE INCLUDES:

1. Alcohol education;
2. Individual counseling;
3. Group counseling;
4. Introduction to Alcoholics Anonymous;
5. Indian culture and values;
6. Films, lectures;
7. Education and vocational counseling; and
8. Indian assembly meeting religion group.

ADMISSION PROCEDURE:

1. Clients admitted on a voluntary basis.

2. Referrals from:

   a. Civilian Courts;
   b. Probation Department;
   c. V.A. Hospital;
   d. Alcoholic Treatment Program;
   e. Turquoise Lodge; and
   f. Referrals from Pueblo Counselors.

3. The Lodge should be called for admission to confirm that a bed is available.

4. Forward the individual to the Halfway House, accompanied by a Counselor.

5. Clients must have a physical examination.

ADMISSION RULES:

Individuals who are admitted to the Lodge agree to:

1. Remain at the Lodge for a period of thirty (30) days. The thirty (30) days may be extended to forty-five (45) to sixty (60) days depending on how the client is progressing.

2. Obey the rules and daily schedules.

3. Attend all accoholic education and group sessions in the Lodge.

5. Be at least sober three (3) days or seventy-two (72) hours, through A.T.F. Detoxification Center or the Detoxification units.

The Alcoholism Program Directors have read and reviewed that portion of the American Indian Policy Review Commission's report that concerns them and they offer the following recommendations:

Recommendations developed for the All Indian Pueblo Council (AIPC) by their New Mexico Indian Alcoholism and Drug Programs for Task Force #11 of the American Indian Policy Review Commission (AIPRC);

1. That alcoholism and alcohol abuse be recognized as the most significant socio-economic health program among Indians and Alaskan Native, and that it be placed in that priority on the list of Indian and Alaskan Native needs.

2. That drug abuse be recognized as a seriously developing problem among Indian and Alaskan Native populations.

3. That because alcoholism and alcohol abuse is a major socio-economic health problem and drug abuse is a growing problem, a separate administration for alcohol and drug abuse program services with line authority be established within Indian Health Services for research, prevention, training, treatment, and rehabilitation.

   a. Adequate monies for drug program activites in Indian Health Services should either be appropriated by Congress or funds from the National Institute on Drug Abuse be transferred to Indian Health Services.

   b. The consolidation of the alcohol and drug activities be identifed within the Indian Health Service structure as Chemical Dependency Programs.

   c. Chemical Dependency Program be established in each IHS area as well as Service Units.

   d. Chemical Dependency Program Central Office function be located in the field adjacent to the major Indian populas - Albuquerque, New Mexico.

   e. To further enhance Indian involvement with the Federal Government regarding alcohol and drug programming, an Executive Board comprised of various groups and organizations be established and delegated powers for major policy making decisions and program direction for IHS that all decisions pertaining to policies and program directions be made in consultation with Indian communities.

4. That a separate unit be established in the Bureau of Indian Affairs with line authority to utilize its already existing resources for the purposes of early identification, research, education, and prevention of alcoholism or alcohol abuse and drug abuse problems.

   a. Alcohol and Drug Program activities with staff be established at each level of Bureau operations, Central Office, Area and Agency with special appropriations to establish such functions.

b. That Bureau research activities be directed towards this problem area and assurances that Indian communities be involved in the design and implementation of such research.

c. Preventive alcohol and drug education be developed and implemented in all BIA schools. Development and implementation must involve the Indian community.

d. That the BIA utilize or develop an executive board as recommended for IHS (3-a).

5. That present funding be recognized as insufficient in meeting the needs of the magnitude of the problem and, therefore, there is a definite need to increase funds for implementation of both new and existing programs.

a. It is recommended that adequate appropriations be given to the Indian Health Service for the treatment and control of alcoholism in the initial amount $3,960,000.00 for FY 1978. This is prompted by the fact that thirty-four (34) projects are reaching their six (6) year maturity date and are tentatively to be transferred from NIAAA to the Indian Health Service.

In addition to the $3,960,000.00, it is recommended to continue funding of the thirteen (13) Alcoholism Training Centers and to reduce the backlog of NIAAA approved but unfunded Indian Alcoholism Projects. Included is $1,833,000.00 required to continue the thirteen (13) training centers which are essential to the future operation of Indian alcoholism programs. No provisions has been made for funding these training centers by NIAAA. Additionally, there are presently forty-two (42) NIAAA approved but unfunded backlog of Indian alcoholism projects totaling $4,800,000.00.

Furthermore, let it be reiterated that the alcoholism programs have been primarily developed for the male population and have not delved into the female and youth programs. Therefore, it is also

recommended that $1,400,000.00 be solicited and appropriated to expand programs to meet the needs of the female alcohol programs and, in addition, $2,500,000.00 for preventive youth alcohol and drug programs. With the cost of inflation and increased workload as well as administrative costs associated with existing projects, we hereby recommend that this be adhered to in behalf of Indian Alcohol Programs for FY 78 and succeeding years.

6. To recognize and support alcoholism and alcohol abuse and drug abuse programs which include Alaskan Native and American Indian traditional, spiritual and cultural alternatives as a viable treatment and prevention modality.

[NOTE: Although national statistics are not available, some data pertaining to areas are attached as data indicating the magnitude of the problem within the Albuquerque area.]

The Pueblo Indians feel that the mandate for future federal Indian policy must encourage Indian self-determination and Indian control of their governmental programs and social services. Under the policy of self-determination, the All Indian Pueblo Council, on behalf of the nineteen (19) Pueblo Tribes, has attempted to contract under P.L. 93-638 a portion of the Albuquerque IHS Programs. This contract was a way to insure that both quality and quantity health services would be provided to all Pueblos of New Mexico. The contract, however, has been denied and AIPC is currently requesting a formal hearing on that denial.

Health is a major concern of the nineteen (19) Pueblos and it is an area in which much federal reorganization is necessary. One (1) major advancement would be to allow further self-determination policies to go into effect. The Indians are most aware of and concerned by their specific health needs. It, therefore, makes sense

to encourage and facilitate tribal requests to contract these services. It is ridiculous to refuse adequate proposals that will improve Indian health care.

The concern over the reduction of health care that the Court Order in the Lewis case will cause is emphasized by resolution No. 19 of the AIPC. It is attached here to illustrate the strong feelings this decision has created.

The Pueblo people feel that current IHS policy denies them the right to self-determination. They submit that at this time, they are not only willing, but are also able to contract that portion of the IHS porgram in the Albuquerque Area Office that provides health care for the nineteen (19) Pueblos. The nineteen (19) Pueblos further assert that such denial is in direct derogation of the announced federal Indian self-determination policies.

ALL INDIAN PUEBLO COUNCIL, INC.
Office of the Chairman
1915 Indian School Road, N.W. P.O. Box 6807 Albuquerque, New Mexico 87107 Phone: (505) 247-0466

RESOLUTION 19

WHEREAS, the All Indian Pueblo Council, representing the Nineteen New Mexico Pueblos, have continually expressed serious concern over the failure and inability of the Indian Health Service to provide health care to the Indian people within the Albuquerque Area; and,

WHEREAS, the Nineteen Pueblo Governors are well aware of the limited funding and health resources presently available to the Albuquerque Area Tribes which is totally inadequate to meet the health care needs of the Nineteen New Mexico Pueblos; and,

WHEREAS, the recent decision in the case of Lewis V. Weinberger filed in the Federal District Court of New Mexico, which further deplete the already limited inadequate health services of the Indian people of New Mexico;

NOW THEREFORE BE IT RESOLVED, that the All Indian Pueblo Council strongly rejects the decision handed down by the Federal District Court in Lewis V. Weinberger and request the Indian Health Service to do whatever necessary to safeguard and give priority to Albuquerque Area Indians in the planning, programming, and implementation of all Albuquerque Area Indian Health Service funds and/or resources;

BE IT FURTHER RESOLVED, that any position contrary to that of the Nineteen Pueblo Governors or to further deplete the limited health services for New Mexico Indians will be met with whatever actions available to the All Indian Pueblo Council.

CERTIFICATION

I, the undersigned, as Chairman of the All Indian Pueblo Council, do hereby certify that the foregoing Resolution was passed at a duly called meeting of the All Indian Pueblo Council, held on the 21st day of May, 1976, at which a quorum was present, with 13 voting for and 0 voting against said Resolution.

Delfin C. Lovato, Chairman, AIPC

ATTEST:

Frank Tenorio, Secretary/Treasurer, AIPC

93-440 O - 78 - 50

NATURAL RESOURCE PRESERVATION AND DEVELOPMENT

As the need for the energy resources, water, and minerals on Indian lands becomes even more important to the nation as a whole, the need for preservation and development of these natural resources on Pueblo lands will become an increasingly crucial issue. The Indians' entitlement to these resources must be maintained as programs are developed to best utilize the limited quantities available. In addition, the problems concerning natural resource preservation are more complicated by the fact that the Pueblos hold their land in fee simple or common tenancy rather than by allotment as most tribes do.

The problem of environmental protection on Indian reservations and the trust responsibility of the U.S. Government through the Bureau of Indian Affairs (BIA) in accomplishing that environmental protection has been discussed to some extent. However, there are other issues involved in the preservation and development of natural resources on Pueblo lands in New Mexico.

One of the problems has been discussed under the section on jurisdiction that concerned the control and taxation of those who would develop natural resources on the reservation. Until the State of New Mexico understands that Indian lands in New Mexico is not subject to the juirsdiction of the state, the development of natural resources, especially energy resources, on Indian lands will remain a peerless question. The question of energy resources and minerals are vey important. Nevertheless, the question of water at this time is most crucial. The U.S. Supreme Court declined consideration on the Aamondt case late last week. Other conflicts between the State of New Mexico's

State Engineer's office and the Pueblos continues. While it is understandable that the State of New Mexico has vital interest in water resources and the allocation of those resources, it has not been the practice of the State to honor the commitments made under federal treaties to the Pueblo Indians of New Mexico. Water is the essential ingredient to the agricultural nature of most of the New Mexico Pueblos, and is significant in the development of preservation of natural resources.

There are federal agencies which also impinged on the right of the Pueblo Indians to develop their own natural resources. A prime conflict between the federal agency and Indian tribe is exemplified by the Corps of Engineers. Their projects are often on Indian lands. It is often the case that plans are made by the Corps of Engineers and other agencies without the participation of the tribes affected by the plans being made. While the Corps of Engineers is not the only agency of the federal government involved in planning for Indian land without the consent of the tribe, the Corps in the past has presented the most egregious examples of this ignorance of tribal sovereignty in juirsdiction. In questions involving the Bureau of Land Management and Corps of Engineers, there are generally natural resources also involved in the planning which those agencies do and which infringes on Indian sovereignty and rights.

The problems caused by federal agencies planning for Indian lands without consent by Indian tribes points out another problem in the trust relationship between the tribes and the federal government. This is particularly true with regard to natural resources of any kind found on Indian lands. It is a mandate

that long-range planning for utilization of those resources take place and that the Indian tribes be directly and intimately involved in that process. That kind of long-range planning and resources inventory is only in introductory stages. In New Mexico, long-range planning is non-existent while the resources inventory has only been talked about. For the Pueblos to fully benefit from the natural resources found on the reservations, it is of necessity that the tribes be granted the money and expertise to do this kind of long-range planning. In many cases, the Pueblos would rather preserve those resources, at least for the time being, than exploit them. Certainly, the economic climate of the times has prevented the tribes from extracting or exploiting their own resources to the primary benefit of the Indian tribe. At this point, the primary benefit goes to the non-Indian developer rather than the Indian tribe. Until better arrangements can be worked out, there is a need for the BIA to extend its trust responsibilities efforts in the direction of long-range planning for preservation and development of natural resources on the lands of Pueblo Indians of New Mexico.

Another concern of the Pueblo people is the abuse of one of their most basic resources, the Indian artisan and his products. The Indian artisan's work is actually the most basic culminative use of the raw natural resources found around him, and is also the source of livelihood for many Pueblo people. Not only are the Pueblo artisans often exploited by non-Indian retailers, but the market is actually shifting away from such native artisans because of the influx of non-Indian made articles which are advertised as Indian made products. The imitations are being imported into this country as well as being reproduced locally.

The Pueblo people seek to have federal legislation enacted which would aid in the regulation and identification of such imitation products. Through Pueblo efforts, such legislation has been enacted at the local state level, but a more comprehensive form of legislation is needed at the federal level in light of the growing sale of such products at the interstate commerce level.

III. FEDERAL TRUST RESPONSIBILITY DEFINED

As trust responsibility is the most crucial element involved in Indian affairs, the Pueblos' definition of that concept will be developed.

The federal government is historically obligated to the American Indians. That obligation is derived from the United States' Constitution, the Indian Treaties made with the United States Government, and U.S. Statutes. These recognize the political relationship between the federal government and the tribal governments.

As a result of that political relationship, the American Indian Tribes derive inalienable vested rights. Based upon the federal government's obligation to Indian people, through federal trust responsibility, the American Indian is guaranteed the following vested rights:

The United States shall guarantee to every Indian tribe in the United States the right to a sovereign but dependent form of government and shall protect the tribes against further erosion of tribal sovereignty and further protect Indian interest from outside interests, including, when necessary, the federal government itself.

The United States shall guarantee the protection of Indian assets and lands from unjust takings or misappropriations. The government shall vest major roles for the development and management of Indian funds and natural resources in the Indian tribes and Indian people.

The United States shall, as continuing consideration for the bargain offered to Indian tribes when Indian lands were taken by treaty agreement, provide for the education, health, and welfare of the people who are members of the now dependent Indian tribes. These

services are the entitlement right of each Indian because of the sovereign rights that their forefathers surrendered when treaties of peace were signed with the United States.

The definition of trust responsibility is the axle that holds all Indian rights and privileges in place. Therefore, it is imperative that this concept be analyzed in depth and be clearly and concisely delineated for utilization in all Indian programs.

IV.

The Pueblo Indians recognize the immediate need for reorganization of the federal level of Indian Affairs. The most effective reorganization would be the establishment of a Cabinet level, Department of Indian Affairs. However, the current trends in federal government would not favor such a Department being established. In spite of that limitation, the Pueblos remain hopeful that major reorganizational actions will still be taken.

The Pueblos feel the most crucial step that can be taken immediately is to establish consistent, cohesive and comprehensive federal Indian policy. The Indian communities feel that a general policy mandate to all federal agencies and programs that serve Indians is long overdue.

This national policy must be based upon the sovereign rights of Indian tribes and the obligation of the federal government to Indian tribes through trust responsibility.

The American Indian Policy Review Commission's (AIPRC) recommendations are directed specifically to the Department of Interior and Health Education and Welfare. That focus is a good beginning, but if there is to be no expansion to other federal agencies and programs, a major portion of federal level Indian Affairs and activities will go unevaluated. This is a significant failure of the Policy Review Commission.

Indians today are affected by many different Washington agencies. In order to establish a consistent federal policy mandate for Indian Affairs, several other Departments of the federal government would have to be considered. The Department of Interior, the National Energy Commission, Housing and Urban Development, Health, Education and

Welfare, and the Department of Labor are all significantly involved in policy-making decisions that affect the reservations.

As a practical approach, the Pueblos recommend that HEW and Interior be reorganized first. A separate office of Indian Affairs directed by an Undersecretary should be established in both Departments. Beyond any reasonable doubt, the research and analysis of the American Indian Policy Review Commission (AIPRC) has established sufficient evidence that significant problems do now exist and that a consistent federal Indian policy must be developed to eliminate the current chaos in Indian Affairs. Once these two (2) Departments have implemented a new federal Indian policy, it would be desirable that this mandate be implemented throughout every Department level of the federal government that deals with Indians.

Only through the development and implementation of a federal Indian policy mandate will consistent and comprehensive Indian programs be established. This mandate is the first step on the road to true Indian self-determination.

Adelphi University • Garden City, Long Island, New York 11530

April 12, 1977

Hon. James Abourezk
U.S. Senate
Dirkson Building
Washington, D.C.

Dear Senator Abourezk:

Thank you for giving us an opportunity to comment on the Tentative Final Report of the American Indian Policy Review Commission. We wish to direct our remarks to Chap. 7 Economic Development since we served as consultants to Task Force #7 during its existence.

(In brief, we examined Chap. 7 and found that it suffers from serious misconceptions, inadequate documentation for its source material, and substantive omissions.) We would like to draw your attention to the most serious defects so that they can be remedied before the Final Report is submitted to Congress.

Part III.D. Timber

The section on Indian timber is a good example of a misunderstanding of the crucial issue. While it is true that Indian timber revenues are diminished because the BIA does not attain the annual allowable cut, this is not the issue. More serious is the fact that the BIA has a backlog of 738,593 acres needing timber stand improvement and 173,365 acres needing reforestation. This backlog impedes the growth of the forest. Therefore, the predicted rate of forest growth used by the BIA to determine the annual allowable cut (AAC) is too high and the figure for the AAC is also too high. If Congress accepts the Commission recommendation to allocate more money to the BIA to help them attain the AAC without first completing reforestation and stand improvement, the timber will be seriously depleted. This issue as well as others were discussed in detail in TF #7 Final Report PP50-61. The entire timber section is vaguely documented at the beginning by a footnote, "This section is based on the work of Quinault foresters and on Rick Nafziger's "Violation of Trust: Federal Management of Indian Timber Lands, "The Indian Historian, Fall 1976, v. 9 pp. 15-23."

This is not acceptable documentation. Readers should be able to locate every figure and quote.

Part IV.B. Availability of Capital

This section is limited to a discussion of trust funds, which for the record, are not invested in Indian reservations, but in the non-Indian banking sector. No explanation is offered for this phenomenon. Other sources of Indian capital such as federal loans and grants are not discussed. No evaluation is made of the Indian Finance Act of 1974. These were treated in TF #7 Final Report. No estimate is made of Indian financing needs. The recommendations are confusing. For example, the Commission first recommends that "the current 4% simple interest rate should be increased to a 6% compound interest rate and then also says "investigate the advantages and disadvantages of establishing either a floating interest rate geared to average market yield or a floor rate with small penalty charges for Indian trust monies."

Part III.C. Minerals

The minerals section is very weak because it contains so little quantitative evidence. There is a wealth of collected data on the Navajo and Crow experiences. The Chapter mentions joint ventures and service contracts as alternatives to royalty agreements but does not explain them or give their advantages and disadvantages. How can they be recommended without spelling out their probable impact? This section makes too little use of the paper American Indian Mineral Agreements: Literature Search and Reform Proposals especially prepared for the Commission. Where it does use this material, it is not footnoted.

Part IV.A. Manpower

The manpower section discusses how technical experts may be developed within the Indian community. It contains many interesting suggestions. However, skilled labor is also needed. There should be an evaluation of past and present manpower training programs such as AVT, OJT, CETA, and Indian Action teams. These were evaluated in TF #7 Final Report.

Part IV.C. Taxation

This section should probably be renamed "Fiscal Powers." The contribution of fiscal policy to economic development should be made explicit.

Infrastructure ?

A factor long recognized as necessary for development is social overhead capital or transport, power, water and communications systems. There is no analysis of the federal government's unsuccessful attempt to provide this essential factor. Again this was dealt with in TF #7 Final Report. Lack of infrastructure deters investment, particularly in the commercial and manufacturing sectors which are extremely underdeveloped on Indian reservations. As a result most reservation economies have very low multipliers, a fact documented by three excellent studies, two of which are in the Commission files.

Indian housing ?

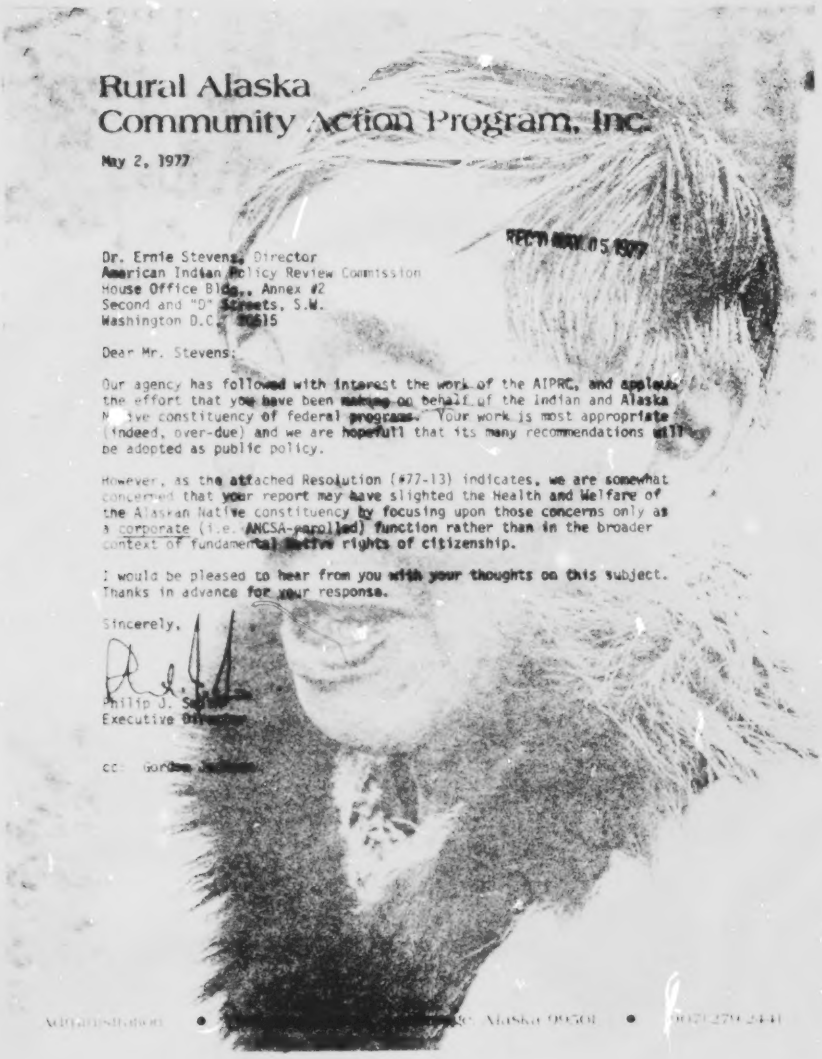
There is no detailed discussion of Indian housing anywhere in the report even though TF #6 and 7 were requested by you to study this issue. The report they produced has summary of the latest housing statistics as well as a thorough discussion of the issues. At least these could have been utilized even if the Commission disagreed with the TF's recommendations.

In addition to the two instances already cited, the Water section is without a single footnote. It quotes William Veeder without giving the exact source.

Sincerely,

Lorraine T. Ruffing
Lorraine T. Ruffing
Assistant Professor

Ronald L. Trosper
Ronald Trosper
Assistant Professor
University of Washington
Seattle



Rural Alaska Community Action Program, Inc.

May 2, 1977

RECD MAY 05 1977

Dr. Ernie Stevens, Director
American Indian Policy Review Commission
House Office Bldg., Annex #2
Second and "D" Streets, S.W.
Washington D.C. 20515

Dear Mr. Stevens:

Our agency has followed with interest the work of the AIPRC, and applauds the effort that you have been making on behalf of the Indian and Alaska Native constituency of federal programs. Your work is most appropriate (indeed, over-due) and we are hopefull that its many recommendations will be adopted as public policy.

However, as the attached Resolution (#77-13) indicates, we are somewhat concerned that your report may have slighted the Health and Welfare of the Alaskan Native constituency by focusing upon those concerns only as a corporate (i.e. ANCSA-enrolled) function rather than in the broader context of fundamental native rights of citizenship.

I would be pleased to hear from you with your thoughts on this subject. Thanks in advance for your response.

Sincerely,

Philip J. [redacted]
Executive Director

cc: Gordon [redacted]

[redacted] • [redacted] Alaska 99501 • [redacted]

Rural Alaska Community Action Program, Inc.

RESOLUTION #77-13

ENTITLED: REQUESTING THE AIPRC TO CONSIDER THE SOCIO-ECONOMIC NEEDS OF VILLAGE ALASKANS

WHEREAS, the American Indian Policy Review Committee was established recommend policy options for the federal government to positively assist the Indian and Alaska Native peoples, and

WHEREAS, the AIPRC has essentially completed its work, recommending major revisions in the existing system of federal assistance, and

WHEREAS, the work of the AIPRC essentially concerned itself with the federal role in assisting with the implementing of the Alaska Native Claims Settlement Act, and

WHEREAS, a volume of data pertaining to the Health, Social, and Economic status of Alaskan Natives was developed in the federal "2-C" study, but was apparently not considered to be relevant to the AIPRC, or its work in Alaska; now therefore, be it

RESOLVED, that the Executive Committee of the Rural Alaska Community Action Program urges the AIPRC to review the status of the Health and Welfare of Alaska Natives, as presented in the "2-C" study, and to append to their findings policy recommendations for federal policy which would positively impact on those concerns.

Adopted at a meeting of the Executive Committee of the Board of Directors of Rural Alaska Community Action Program, Inc. on April 21, 1977, in Anchorage Alaska.

Signed: S/Gordon Jackson
Gordon Jackson, President
RurAL CAP Board of Directors

Signed: P. J. S.
Philip J. Smith, Executive Director
Rural Alaska Community Action Program

Administration • P.O. Box 3-3908, Anchorage, Alaska 99501 • (907) 279-2441

11302 East Riverside Drive
Bothell, Wa. 98011
March 19, 1977

American Indian Policy Review Commission
Washington D.C. 20515

Gentlemen:

I am a non-indian property owner owning property on an Indian Reservation.

I can't believe the article in the Seattle Times 3/16/77 on your recommendations to Congress. Is this really true?

The Government gave us the right to buy our property on the reservation with our hard earned money. The Government gives us the right to pay taxes on this property. Why, are you taking our rights to use and enjoy this property away from us?

For the past 7 years, the Indians have been harassing and threatening all of us non-indian property owners to the extent that we are afraid to use our property. We were sure that legislation was being worked on to stop this.

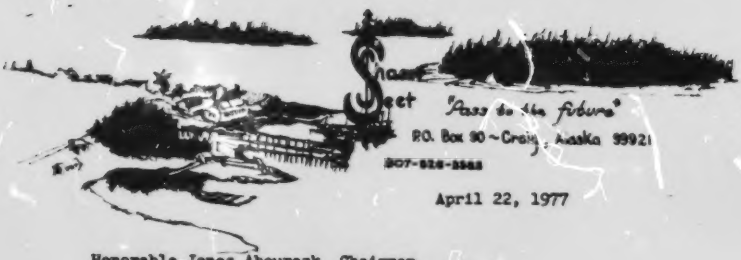
I can't believe the Government (or the Constitution of the U.S.) would willfully give one American group the power to control and hurt another like this.

It appears the Government is talking out of both sides of their mouth. They want to integrate the Negroes and segregate the Indians. Why can't we do away with the reservations and all be Americans with equal rights.

Please, can you give me any information, so I may understand what you are trying to do to us and accomplish by this kind of recommendation to Congress.

Respectfully yours,

Lue A. Seil



April 22, 1977

Honorable James Abourazk, Chairman
American Indian Policy Review Commission
Congress of The United States
House Office Building Annex No. 2
2nd and D Streets, S. W.
Washington D. C. 20515

Dear Senator,

Shaan-Seet Incorporated received a letter from Commissioner Borbridge in regard to the Final Report of the Policy Review Commission. We received the guide, but the Final Report and the questionnaire referred to in his letter did not reach this office. We find the guide very informative and we were happy to see some of our concerns listed. We would therefore, like to offer a few comments through this letter.

Chapter 12 Special Circumstances-Alaska

1. Paragraph three-Easements. Considering the amount of coastline involved in our land selection, we feel the twenty five foot lineal shoreline easement is unfair and would cause a hardship in managing our lands.

2. Paragraph five-Conveyance deadline. We support this request. Over two years have passed since submitting our land selection and we are not past the Bureau of Land Management.

3. Paragraph nine- Taxation. We feel undeveloped or non-productive land should remain in a tax exempt status. It will take years to develop some of our lands and we should not have that tax burden.

93-440 839

4. Paragraph ten-Alienation of stock. We favor an extension beyond 1991 of the restriction on the sale of stock. If this were allowed to happen, it could cause untold problems for the villages. We would hardly know the value for one thing and we can forsee non-native participation and perhaps control in many areas. This section should have special investigation and consideration.

5. Referring to Chapter 7-Economic Development. Paragraph three, reservation lands, first "right of purchase".

   We feel this first right of purchase should also be given the village corporations under the Alaska Natives Claims Settlement Act. Our villages have been termed reservations for the purposes of the Indian Financing Act by the Bureau of Indian Affairs. Municipalities have been known to sell lands for operating capital and we feel we should have this option to purchase. The acreage in Craig at the present time is less than 200. We do not foresee expansion very far into the 1280 re-conveyance and are fearful of its disposition if there are no restrictions. This is the case in most of our villages in Southeast Alaska.

The other topics not specifically mentioned are of equal importance to our corporation and our region. We commend the Commission for their concerns and recommendations.

Thank you for the opportunity to respond and we look forward to receiving a copy of the Final Report.

Sincerely,

Marjorie Young

President

cc: Commissioner John Borbridge

SHINNECOCK TRIBE
Shinnecock Indian Reservation
BOX 99
SOUTHAMPTON, LONG ISLAND
NEW YORK 11968

BOARD OF TRUSTEES
HARRY K. WILLIAMS
PRESIDENT
CHARLES KELLIS SMITH
TREASURER
AVERY C. DENNIS
SECRETARY
ELVIS HOPSON JR.
CLERK

THE OLDEST
SELF-GOVERNING
TRIBE OF INDIANS
IN THE
UNITED STATES

April 21, 1977

Dear Mr. Senator:

We enclose the following comments and questionnaire for inclusion in your final report.

Our comments are postmarked pre-April 23, 1977 as per instructions by a commission representative. In light of the brief period of time allotted for review and comments, it was not possible to attempt completion of the questionnaire before now. We regret that the Commission and perhaps the entire Congress did not provide more information to the Shinnecocks and other tribes about the Commission so that we could have participated in its work with a better understanding of its purpose and the kinds of issues about which we were asked to comment.

Maintaining our self-government over clearly defined lands and waterways is a major concern to us; providing better homes, jobs, education and health care is as important. We do not comment now on whether we want to "recognition" if it means control by the BIA under its present structure. We do assert that we are Indian people who desire the rights, benefits and privileges given Indian people throughout the United States.

COMMENTS FROM THE SHINNECOCK TRIBE

The Shinnecocks have not had ample time nor resources to analyze the AIPRC Final Draft to our satisfaction. Nevertheless we offer the following comments on the sections we did examine:

We do not comment upon the legal and factual accuracy of Chapters I & II but we do support what seems to be emphasis on sovereignty of Indian governments as political and social reality, and the determination of Indian people to maintain cultural as well as racial identity. However, the chapter skims too quickly over the treatment of tribes in the Eastern portion of the United States, tending to leave the impression that removal policies of the 1800's affected all existing tribes. The truth is that many tribes east of the Mississippi River remain inhabitants of their ancestral homelands. In the years prior to the formation of the United States their leaders were known to the white settlers. Eventually state governments dealt with many of these tribes and nations and although no federal treaties were signed for many, "recognition" was accorded to and assumed by these tribes. For some, federal recognition never seemed to be a need or was not understood, only later has it surfaced that the non-federally recognized tribes have been denied services and political status accorded to other tribes.

We recommend that the report would be substantially improved if this issue is set forth at the beginning of the report in somewhat more detail that at present. We are not certain whether statistics given throughout the report showing"numbers of Indians" include the non-federally recognized Indians as well as those presently eligible for BIA services; We want to be counted.

Economic development is a major concern among our people. We note that the discussion of water resources fails to discuss problems of tribes with great bodies of water on our boundaries. We have legal and environmental problems that must be addressed.

As earlier stated, we are concerned that all readers of the report understand that "unrecognized" tribes are as much Indians as "recognized" tribes, and that the distinction does not signify any lesser degree of political and cultural identity and continuity. We want these issues dealt with in the final report, and considered in any future planning and federal actions.

---

1 Note the correct information on the Shinnecocks.

IMPORTANT

We recognize that you may not be able to thoroughly read and evaluate all parts of this Report within the time allowed for comment. However, in order to include your comments in our Final Report, this questionnaire must be completed and returned in the enclosed envelope postmarked no later than April 16, 1977. Our Final Report must be completed by May 15, 1977 for final Commission approval.

NAME Harry K. Williams, President ADDRESS _____

TRIBE/ORGANIZATION Shinnecock Indian Reservation ~~Southampton, N.Y.~~

A. PLEASE CIRCLE ONE TO INDICATE YOUR IDENTITY AS:

(Tribal Chairman) Tribal Governing Body Individual Indian

Member of Congress Organizational Governing Board

State Official Private Citizen

B. PLEASE EVALUATE THE SECTIONS BY CHECKING THE BLANK WHICH MOST NEARLY REPRESENTS YOUR OPINION.

	Excellent	Good	Poor
The report as a whole is	_____	_____	_____
I. History	_____	_____	_____
II. Legal Concepts	_____	_____	_____
III. Conditions	_____	_____	_____
IV. Federal-Indian Relations	_____	_____	_____
V. Tribal Government	_____	_____	_____
VI. Federal Administration	_____	_____	_____
VII. Economic Development	_____	_____	_____
VIII. Social Services	_____	_____	_____
IX. Off-Reservation	_____	_____	_____
X. Terminated Indians	_____	_____	_____
XI. Non-Recognized Indians	_____	_____	_____
XII. Special Problem Areas	_____	_____	_____
XIII. General	_____	_____	_____

We decline to rate the sections at this time but will do so if given additional time.

C. HAVING READ THE RECOMMENDATIONS AT THE END OF EACH SECTION, PLEASE ANSWER THE FOLLOWING QUESTIONS.

1) Which recommendations should be given priority status? Why? _____

See attached comments

2) Are there recommendations with which you disagree? Why? _____

Correction: pg. 11-13h

Shinnecock Tribe Number of members 303

3) Are there recommendations you would like to have added? _____

4) Do you feel the content of the report provides an accurate, useful picture of the situation? _____

5) Do you have any additional comments? _____

Shinnecock has been mentioned in BIA ~~reports and other~~ reports of the Congress and federal agencies concerning Indians. We will provide citations if requested.

F. SPACE IS PROVIDED ON THE FOLLOWING PAGES FOR YOUR SPECIFIC RECOMMENDATIONS.

NAME_____ ADDRESS_____

TRIBE/ORGANIZATION_____ _____

RECOMMENDATIONS

Chapter ( ) Page ( ) Paragraph ( )

In the section beginning with the words "_____

_____," it is suggested that the following addition, deletion or change in wording be made, or the following concept expressed differently:_____

The SHOSHONE-BANNOCK TRIBES

FORT HALL INDIAN
RESERVATION
PHONE 237-8408 EX. 42

TRIBAL EDUCATION COMMITTEE
P. O. BOX 306
FORT HALL, IDAHO 83203

April 19, 1977

Senator James Abourezk
United States Senate
Suite 3221 Dirksen Building
Washington, D.C. 20510

Dear Senator Abourezk:

"The Shoshone-Bannock tribes are very concerned about the Education of Indian people, especially the youth who represent the future and destiny of our people. If we are ever to have self determination and become self sustaining people we must have quality education."

The following are comments which reflect the view of our land based tribe, the Shoshone-Bannock's, concerning the temporary final report of the Task Force 5 Report on Indian Education.

First of all, our concern is that the Bureau of Indian Affairs and other federal agencies please be reminded that we are a treaty tribe that has been federally recognized since the signing of the Fort Bridger Treaty. We believe that funding should continue to be channeled through the Bureau of Indian Affairs in an elevated position, preferably a Department of Indian Affairs.

On page 8-128 of the tentative final report the recommendation was to shift all federal education programs from OE and BIA to one administrative agency. We disagree with the recommendation to shift education out of the BIA. The education services provided by BIA should be expanded to provide quality education at all levels of education from the cradle to the grave because Indians feel that education is a life long learning experience.

There should be vigorous enforcement of Indian treaty rights as they relate to land, water, education and other resources. Both at the Central Office and Area Office level.

Federal regional offices and state government offices should be relieved of their role in serving as a channel for funds to Indian tribes. Their administrative costs do not allow for adequate funds to reach tribes. We are counted, but never receive the services at the local level.

We agree with recommendation Number 2 to shift control of funds for Indian education from state and local governments to the tribal governments on page 8-128.

Federal dollars for Indian tribes should be consolidated in one agency for Indian programs, prior to disbursement to Indian tribes. The reason for this is because many of the other agencies such as H.U.D., H.E.W., and D.O.L., etc., have primary functions that seem to disregard our needs and the Bureau of Indian Affairs has been mandated to look out for Indian interests.

In the summary report of AIPRC Task Force V Report by Andy Anderson on page 13, a National Indian Education Commission is recommended. We disagree with this recommendation. Instead, each area office should have an Indian Education Advisory Board on education and a Northwest Indian Education Service Center should be established in a central area for technical assistance to reservation land based tribes.

Educational Service Centers should be developed and implemented by "user" tribes. The centers would be developed in concurrence with and responsive to the local regional tribal representative i.e., Affiliated Tribes of Northwest Indians.

On page 8-91 of the report entitled "The Delivery System." The Bureau of Indian Affairs needs to develop a better system of communication on education matters from the central office to the local tribal level. Currently, the information is channeled through various levels and may take from three weeks to two months before a tribal receives the information. The recommended Indian Education Service Centers in the Northwest should be utilized to provide immediate communication to the reservation level.

The present communication process is cumbersome and not totally effective in passing the volume of information necessary for educational services development or tribal input on critical education issues.

To help overcome the organizational and communication irregularities as expressed on 8-91 and 8-92, it may be desirable to establish more effective communications centers or outlets, e.g., National Training Center, the proposed Education Service Centers, etc., that could unilaterally pass information.

On Policy Issues in Education:

The elected tribal governing bodies should be recognized as the sole authorities determining tribal membership. The National government must recognize the inherent right of tribes to determine their membership. On education matters, tribal governing bodies and their representatives should be allowed to make the determination of the policies

needed and provide direction on National Indian education issues. At the present time the elected officials are overlooked on policy matters that effect the future of Indian people. The administration and staff needs to be educated concerning tribal sovereignty.

Research points out the need for each reservation to define education according to its own particular and unique value system. The need on one reservation may be fishing and aquaculture and another may be far different than the needs of the farming and ranching needs of a reservation like ours at Fort Hall. This points up the need for a meaningful control of education and direction by tribal governing bodies.

The Snyder Act was not mentioned anywhere in the education report. We feel that the Snyder Act should not be changed in anyway. The federal responsibility should be reaffirmed as it is, with no changes made in this act.

On page 8-116 and 8-117 of the education section of the report, reference is made to Indian Controlled schools.

We agree with the need for tribally controlled schools, which is a natural and inherent right. We have our own school at Fort Hall but the physical facilities are inadequate and funds for on going administrative and educational functions are needed. Soft monies create problems in continuity. Adequate and long range base operating funds are needed. Construction funds are needed for these schools immediately. For these students, the public school systems have failed to meet educational needs. We feel that Indian controlled schools are restoring self image and interest among our young people. We have students that will be graduating with solid basic skills and a positive self image. Certain BIA and HEW policies, federal rules and regulations are restrictive to Indian controlled schools. These need to be modified.

We need consistant realistic and stable administrative policy and program regulations and guidelines in the BIA and USOE.

On page 8-94 entitled "Off Reservation Boarding Schools", we stress the following: Current boarding schools should be retained and upgraded to offer the highest quality of education. Teachers and administrative staff should be hired on a contract basis thereby provided for elimination of incompetent and undesirable staff who have no empathy, understanding, or concern for Indian youth. These people can quickly destroy the self image of youth when they should be bolstered.

The responsibility for the administration of boarding schools should lie with the duly elected school board appointed by tribal governing bodies. The boards should have real authority and power. It should be a policy board with recruiting and hiring authority.

No mention was made in the tentative final report of the need for the Bureau of Indian Affairs National Indian Training Center. We feel that tribes have the need for short term relevant training sessions as provided by the National Indian Training Center. The staff needs to be expanded and travel expenses need to be available at all times with no cut back of funds from the BIA or OMB. This program needs to be placed under the direction of the Central Office and remain at the current location at Brigham City, Utah, where reservation tribes have access to the center.

On page 8-91 of the Education report refers to the Indian Education Resources Center in Albuquerque, New Mexico. We feel that this center should be evaluated because many tribes have no idea of what is offered from this agency. The personnel, budget and function of this office should be transferred to the area office where Indian people from all areas would have access to the services. Tribes need assistance in curriculum development, research, career education planning, etc. The BIA should be a service organization delivering to Indian tribes the appropriate and requested services and support, concerning education and legislation proposed by Indian tribes. Input should be sough from federally recognized tribes on selection of people to be transferred. Duties of these BIA people should be clearly defined so that tribes know who can be contacted on a specific subject.

Additional personnel be made available at the local BIA area office rather than increasing central office staff. Communication from the central office to tribes is painfully slow.

Lines of fiscal and educational accountability need to be clearly drawn on federal programs and administration. We need more control and authority over federal programs by the Indians themselves.

AIPRC education recommendations reflect most clearly the interest and educational backgrounds of the commission in that they have placed too much emphasis upon meeting needs in higher education without considering other needs also. This position is not compatible with traditional Indian belief that education must include learning experience from the cradleboard to the grave. Higher education is important, but more important yet to tribes are critical needs to be met at the pre-school, elementary and secondary levels where Indian children fail more often than they meet success. Only those who are successful can be considered potential consumers of the high education programs.

For all practical purposes, Indian education programs and funding levels should represent a pyramid with more programs, funds and attention directed to the base or foundation which begins at the nursery school level. Higher education efforts should be in balance with other education programs.

Available resources should be matched to the direct and immediate needs of the Indian communities, which necessitates a process that allows real local community input. A.I.R.P.C., in its recommendations, proposes process that do not adequately reflect the basic concerns in Indian Education.

It is therefore recommended that AIRPC reverse their priorities and place strong emphasis upon pre-school through secondary education for programs, services and funding.

Higher Education Needs:

There has been a gradual misalignment of needs and resources of higher education funds of BIA to the Education Office of H.E.W. We are concerned with the way OMB has put limitations on BIA higher education funds. The responsibility for Indian education lies with the Bureau of Indian Affairs. It is a trust responsibility. Indian tribes have a unique relationship with the Federal government which is mandated by the treaties, the government signed with the tribes. Education then is our right not a privilege or a gift, but a right granted to us based on our treaties. It must be upheld by the Bureau of Indian Affairs as a trust responsibility. It can not be gradually shifted to Department of H.E.W., and we strongly resist the effort being made by OMB to do it now. We are aware of this move based on the gradual decrease in funds available in higher education over the last few years, even though our Tribe placed education as a high priority on the band analysis.

Therefore, BIA higher education funds need to be increased, due to the Bureau's Trust Responsibility, along with the other education programs of early childhood education, elementary and secondary education and adult education. BIA higher education funds should not be used as supplementary grants to Indian students, but as the footstone of a financial aid package for Indian students. BIA funds should fund the total scholarship for Indian students. Many times Indian students are thrown into keen competition with other college students for a handful of financial aid money. The BIA higher education funds should be made available first so as to insure a greater number of successful students. It is very frustrating to students to be considered as just another number in getting financial aid from colleges without concern by a financial aid officer for the students special needs. Improved procedures for distributing higher education grants to Indian students are needed. Local BIA education specialists and Tribal education committees have more knowledge on the special individual needs of the Indian students and therefore should be given more authority to distribute funds rather than through the financial aides officer at the colleges. Many times there are special needs and circumstances which arise that call for immediate action to keep our students in college. Often the

financial aids officers have the power to send supplemental monies back to the BIA and Tribes, stating the students needs have been met, on paper, but in reality have not been. Students are in college to learn and not to worry about financial problems for each quarter or semester. Learning can not take place when there is frustration over financial aids or money to live.

Many times our students are not successful in college because the schools are not preparing them adequately with the basic skills for college. And many times the colleges provide courses that have very little in regards to Indian problems on reservations. Therefore, we see a strong need for establishment of a Northwest Indian four year college that would provide curriculum relevant to Indian tribes in the areas of college skills, reading, writing, and math, tribal government and administration, Indian history and culture, Indian leadership, development and educational curriculum development based on Indian culture for public schools. We strongly recommend that funds be made available to the Portland Area Office to have an investigation done immediately to determine the need and feasibility of establishing a four year Northwest Indian college in a central area to the Northwest Tribes.

These concerns are just the highlights that we felt should be considered in the final report on Education of the AIPRC prior to the submission to Congress. We are concerned because this is the destiny of our people that is being discussed. We urge that the aforementioned be adopted in the education section of the report.

Yours truly,

Maxine Edmo

Maxine Edmo, Chairperson
Shoshone-Bannock Tribal
Education Committee

ME:lpb

cc: Senator Frank Church
Senator James McClure
Representative George Hansen
Representative Steve Simms
File

SIOUX INDIAN CENTER, INC.
4851 REDMAN AVENUE
OMAHA, NE 68104 (402) 451 - 5527

"MEMORANDUM TO THE AMERICAN INDIAN POLICY REVIEW COMMISSION'S "TENTATIVE" FINAL REPORT"

FROM: SIOUX INDIAN CENTER, OMAHA NEBRASKA

We, as free people, of the Sioux Nation, who have honored the Solemn Soverign Treaties of our Nations, inheritors of the indigenous rights of the original inhabitants of this Continent and god loving beings of the Peace Pipe, ask:

WHICH LAWS RANK ABSOLUTELY FIRST IN THE UNITED STATES?

Those contained in your Constitution. Next in rank come the United States statutes and "TREATIES" and then the state constitutions; and then the state statutes. After those laws come the county, city and town statutes and finally, the by-laws and ordinances.

We, ask the world, that people of all races, Nations and thought, LISTEN TO OUR PEOPLE.

We Have Spoken,

James R. Hogner

James Hogner
Headspokesman

Spiritual Advisor
Sam Moves Camp

Sam Moves Camp

Sitnasuak Native Corporation

PO BOX 905 NOME ALASKA 99762
PH.# (907) 443-5296

April 22, 1977

American Indian Policy Review Commission
Congress of the United States
House Office Building Annex No. 2
2nd and D Streets, SW
Washington, D.C. 20515

Dear Sirs:

The following are some of our comments on the final report of the American Indian Policy Review Commission. We have restricted comments to Chapter 12 on special circumstances in Alaska since this concerns us immediately. Additionally, throughout our disertation we ask you to keep Section 2 (b) of PL-92-203 in mind which states in part:

> "the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property, . . ."

We recommend that Congress clarify the authority of the Secretary of the Interior to reserve easements on lands to be conveyed to Native Corporations under the Settlement Act. This authority must not exceed authority in previous land conveyances to other private land owners to protect our rights under the 5th Ammendment of the United States Constitution. Uncertainty and litigation regarding easements on these land conveyances have needlessly impeded the land conveyance process. We urge Congress to clarify their intent to the Department of Interior to clear this uncertainty regarding public easements on Native lands.

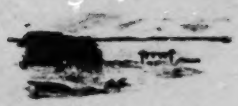
We support the recommendation that Congress require the Secretary to convey all lands to Natives and Native Corporation not later than December 31, 1978. We feel that this is not unreasonable considering the times and effort that other Departments such as the Bureau of Sports Fish and Wildlife, U.S. Wildlife Service, The National Park Service and others

along with the Federal State Land Use Planning Commission have devoted in preparing for Section 17 D-2 of the Act.

We find that many parts of the Settlement Act are unclear or open to interpretation so that continued oversight hearings by Congress and reports by the Secretary would accelerate implementation of the intent of Congress.

The recommendation that Congress enact legistation to exempt lands conveyed to Native Corporations under the Settlement Act from State and Local taxation bears careful consideration by Congress. Alaska is undeveloped such that any state or local tax on undeveloped lands would, in our opinion, force Native Corporations to make land transaction without proper planning, without just return and could cause lands to be developed prematurely. Since the Act is primarily to settle claims by Natives it is recommended that this tax shelter be applicable only so long as a majority of the outstanding share are Native owned. In any case it is extremely important that Congress review the implementation and effect of the Settlement Act in 1989 as recommended by the American Indian Policy Review Commission.

It is our assumption that impact statements pursuant to the National Policy Act are not required of the Secretary of the Interior prior to conveying lands to Natives and Native Corporation. In the event that the Secretary considers this necessary. We urge Congress to confirm that these Statements are not required. Our reasoning is that Congress can not know how the Natives and Native Corporations will manage these lands after conveyance, and that some projects undertaken by the Natives and Native Corporations will require Statements at the time of the proposed action.



Congress, through the Alaska Native Claims Settlement Act, requires exceedingly demanding actions of Natives and Native Corporations in order to qualify for lands and monies. It is our opinion that additional excessive demands should not be placed upon Natives and Native Corporations by the Secretary of the Interior.

We humbly ask that you consider our comments for their merits and we would be glad to clarify any opinion at your convenience.

Thank you for the opportunity to provide this response.

Sincerely,

SITNASUAK NATIVE CORPORATION

Richard Miller, President

Richard K. Atuk, Executive Director

RM,RA:rb

cc: Congressman Mike Gravel
Congressman Ted Stevens
Representative Don Young
AFN
BSNC

western union **Telegram**

NFR092 WAD176(1529)(2-052704E196)PD 05/06/77 1529
ICS IPMMTZZ CSP
2064862679 TDMT SHELTON WA 159 05-06 0329P EST
PMS ERNIE STEVENS, DIRECTOR AMERICAN INDIAN POLICY REVIEW COMMISSION
141R NEW SENATE OFFICE BLDG
WASHINGTON DC 20510
RE AMERICAN INDIAN POLICY REVIEW COMMISSION FINAL REPORT THE SQUAXIN ISLAND TRIBE OF INDIANS OF THE STATE OF WASHINGTON HEREBY VEHEMENTLY PROTESTS THE APPARENT PREJUDICE SEPARATE DISSENTING VIEWS OF CONGRESS LLOYD MEADS D-WASHINGTON VICE CHAIRMAN OF THE AMERICAN INDIA POLICY REVIEW COMMISSION HIS PERSONAL INTREPRETATION OF THE SPECIAL TREATY RELATIONSHIP BETWEEN THE FEDERAL GOVERNMENT AND INDIAN TRIBES ARE DISTORTED BEYOND REALITY. TREATIES ARE THE LAW OF THE LAND AS GUARANTEED WITHIN THE CONSTITUTION OF THESE UNITED STATES AND YET AS REPRESENTED IN THESE DISSENTING VIEWS MR MEADS

western union **Telegram**

ENFORCES THEIR TOTAL ABROGATION WITH NO RESPECT OF THE LAW HE STATES HIS DISTAIN FOR THE LACK OF OBJECTIVITY EVIDENT TO HIM IN THE FINAL REPORT HOWEVER HIS VIEWS ARE TOTALLY SUBJECTIVE AND PREDICATED BASED UPON FACT THEN ON HIS OWN PHILOSOPHY. WE AS TREATY TRIBES ARE SOVERIGN ENTITIES ALTHOUGH DISCLAIMED AS SUCH BY MR MEADS AND THEREFORE ARE SHOCKED AND OPPOSED TO VIEWS AS DISTINCTLY RACIAL AS THIS PUBLIC SERVANT.
CALVIN J PETERS, CHAIRMAN SQUAXIN ISLAND TRIBE
NNNN

93-440 O - 78 - 53

EXECUTIVE DIRECTOR

SOUTH BAY INDIAN SERVICES, INC.

3646 Long Beach Blvd. Suite E
Long Beach, Calif. 90807
424-0941

6 April 1977

American Indian Policy Review Commission
Task Force Eight
Congress of the United States
House Office Building Annex No. 2
2D and D Streets, SW.
Washington, D.C. 20515

Attention: Ernest L. Stevens, Executive Director

Dear Mr. Stevens:

I have recently reviewed a copy of the Task Force Eight: Final Report on Urban and Rural Non-Reservation Indians to the American Indian Policy Review Commission. I have found the report to be, in general, well done and extremely comprehensive. I do, however, have on comment to make regarding Appendix B-2 on Urban Organization Questionaires. In the California section, your task force included an answer from the American Indian Claims Association to which I would like to reply and add some additional and vital information.

In 1961, I was instrumental in forming the American Indian Claims Association. This association is and has been for some time, defunct for all intents and purposes. Mr. Roberts, the "executive director" runs the organization out of his own home but in name only. The organization receives no funding at all, neither federal, state, or local. According to your report, the American Indian Claims Association portends to service the Long Beach and South Bay area; however I have not, in many years, had knowledge of this organization aiding anyone. South Bay Indian Services, of which I am the executive director (for the past 7 years) is the only Native American urban organization which services the Long Beach and South Bay area (which includes 23 cities of Los Angeles County).

In addition, the information from the American Indian Claims Association in the report states "not enough Indians at the time to warrant funding." South Bay Indian Services estimates some 100,000 Native Americans in the greater Los Angeles area with at least 25-30,000 of them in the South Bay area. Also, the South Bay Indian Services has been the recipient of federal funding for the past 7 years. Our funding sources recognize the Indian population of this area and I cannot believe that they would say the opposite to the Claims Association. Federal, state, and local funds are all needed urgently by urban organizations such as South Bay Indian Services; what funds we do receive are appreciated and efficiently utilized for the betterment of the urban Native American even though insufficient.

I appreciate the efforts of the Review Commission and hope that new and enlightened legislation will result from those efforts. Thank you for taking the time to review my comments. If there is anything else that I or my organization can do to aid in your efforts, please do not hesitate to let me know.

Wishing you the best in your endeavors.

Sincerely,

Weecie Ford
Executive Director

cc: Senator James Abourezk, Chairman
American Indian Policy Review Commission

WF/klg

STATE OF SOUTH DAKOTA

RICHARD F. KNEIP
GOVERNOR

EXECUTIVE OFFICE
PIERRE
57501

May 11, 1977

The Honorable James Abourezk, Chairman
American Indian Policy Review Commission
House Office Building, Annex #2
2nd and D Streets, S.W.
Washington, D.C. 20515

Attention: Chuck Downs

Dear Jim:

This letter is in response to your request for comments on the American Indian Policy Review Commission's draft report.

I asked the Human Resources Sub-group of my Cabinet to discuss this matter and I am enclosing a copy of a report from Dan Bucks, Commissioner of the State Planning Bureau, following several meetings of the sub-group members and scores of hours of work by the staff of the sub-group. The sub-group is comprised of the following individuals: Ms. Judith Call, Secretary of the Department of Health and Chairperson; Dr. Don Dahlin, Secretary of the Department of Public Safety; Mr. Dennis Finch, Secretary of the Department of Labor; Dr. Ronald Reed, Secretary of the Department of Education and Cultural Affairs; Ms. Rochelle Ducheneaux, Coordinator of Indian Affairs; Mr. John Johnston, Director of the State Economic Opportunity Office; and Dr. Orval Westby, Secretary of the Department of Social Services.

I hope that this report will receive your careful review. I want you to know that I have personally reviewed each recommendation with the entire cabinet sub-group membership.

The Honorable James Abourezk, Chairman
May 11, 1977
Page two

Thank you for the opportunity to be heard on this matter and I hope these comments will be of assistance to you as you prepare your final report to all of the Members of Congress. With every best wish, I remain

Sincerely,

Dick

RICHARD F. KNEIP
GOVERNOR

RFK: cbc

Enclosure

cc: Senator George McGovern
Representative James Abdnor
Representative Larry Pressler

State Capitol
Pierre, South Dakota 57501
605/224-3661
Office of
Executive Management

May 3, 1977

MEMORANDUM

TO: Governor Richard F. Kneip

FROM: Dan R. Buckl

RE: Bureau Recommendations Concerning American Indian Policy Review Commission Report

The following are the recommendations of the Bureau concerning comments you might make on the American Indian Policy Review Commission's Report. These recommendations are based on the discussion with the Department Secretaries on April 26, 1977.

1. Creation of a Department of Indian Affairs.

   We recommend endorsement of the concept of this department. Such a department is likely to provide an effective focal point for Indian problems and Indian services. Moreover, existence of such a department might contribute to a more successful resolution of conflict over Indian Policy. Comment should be reserved, however, on the detailed powers, duties and structure of such a Department. Endorsement should be limited to the concept.

2. The Long-Term Objective of Tribal Governments Exercising the Same Powers as Other Local Governments.

   We recommend that you express reservations concerning this objective. This objective carries with it many implications for implementation. The objective cannot be considered without also considering the steps necessary to bring it to completion. The resultant confusion concerning relationships with other local governments and the jurisdiction of non-Indian residents on reservations by tribal governments are two major concerns. Such circumstance is unacceptable unless the following conditions can be met:

   a. Non-Indian residents are able to vote in tribal elections. This is in keeping with the fundamental principle of full representation of all peoples within a democratic country. The Indian people are citizens of the state and country. Any government established and controlled by the tribes must allow voice in their decision-making process to any non-members it governs. To do less would deny United States citizens participatory rights in a government that has the power to influence their lives.

b. An orderly and phased program should be adopted for federal or tribal assumption of financing the services now provided by the state. In other recommendations, the Commission contemplates the continuation of services to reservations even if they exercise full and sovereign governmental powers. It is our recommendation that if a transfer of governmental powers is to come about, the responsibilities in the provision of services and benefits should also be transferred. Such arrangements, however, should not result in any net reduction in services to Indian citizens, so that governmental change does not result in adverse economic or social effects for Indian citizens.

c. In essence then, we recommend the establishment of Indian reservations as separate federal entities. The District of Columbia serves as a model of a separate federal entity already in existence. It would be hoped that the establishment of such a separate federal entity might alleviate the many problems eminating from the combined federal and state jurisdiction in existence now. The reservations and tribal governments have long existed within state boundaries and jurisdiction. If entities would be created separate from the state, sovereignty could become a reality for Indian people. The state would no longer be an added burden for the tribes in dealing with the federal government. The state and reservation/tribal governments could deal with one another as equals. State and tribal governments would not answer to each other; however, both would still answer to the federal government.

However, before any actions are taken the question of becoming a separate federal entity should be put to the people of the effected jurisdiction. Without expressed approval and support by residents, the creation of a separate entity could not be implemented.

d. Should Indian reservations become separate federal entities, there would be a need for federal control and assistance in certain matters of state-reservation sovereignty. Federal legislation would have to be forthcoming to define state-reservation jurisdictions and limits of power. To avoid disregard for the law, extradition problems and full faith and credit agreements would be necessary. The federal government would have to provide assurances to both the tribal reservations and the state that such agreements would be reached before the separate federal entity status could be attained.

e. Consideration should also be given to potential jurisdiction problems with other local units of government currently having jurisdiction in the relevant areas. Under the federal entity status a single unit of government would have to accept responsibility for jurisdiction. This would mean other political subdivisions would come under the main jurisdiction. Another possibility might be the phasing out of other units of local government to avoid duplication of responsibilities and conflict.

Part of the implementation might be the purchase of non-Indian owned land on the reservation if the owners wanted to leave the reservation boundaries. This would alleviate jurisdiction problems encountered in tribal control of Indian lands deeded to non-tribal members. Non-tribal members electing to stay within Indian land boundaries would come under tribal jurisdiction without a voice in tribal government.

f. Should the Indian reservations become separate federal entities, provisions would have to be arranged for adequate congressional representation.

3. Increasing limits of penal powers of tribes from $500/6 months jail sentence to $1000/1 year jail sentence. We recommend that you concur in this recommendation.

4. Allowing Federal Money and Programs to Flow to the Tribes Directly. We recommend endorsement of this proposal.

5. Tribal Power to Tax on Reservations. We recommend that you express the view that if all of the individuals subject to taxation by tribal governments are equitably represented in that government, then the power to tax should not be withheld. Taxation should only apply to those having a voice in tribal government.

6. Control of Waterways, Fishing and Hunting on the Reservation.

It is difficult to assess the impact of this recommendation because the limits of tribal and state jurisdiction are not clearly defined. While we recognize the Indian peoples rights to these natural resources through treaty, executive order and case law interpretation, we must also recognize the inherent potential for dispute. The long-term boundaries and limits of the natural resources control would have to be clearly defined, avoiding state-tribal overlap while providing flexibility to both. Specific delimiting factors would have to be clarified before any evaluation could be completed.

7. The shifting of Indian education control from state and local government to the tribal governments.

We recommend the increasing of control by Indian people over any federal or tribal educational systems. These systems are primarily operated by the Bureau of Indian Affairs and should be responsive to Indian needs. The state educational system, however, is for the benefit of all citizens of the state and as such must be responsive to all citizens, Indians and non-Indians alike.

It is suggested that there be expanded Indian participation in educational systems in two ways. The first way would be to use the election of local school board members as an opportunity to gain membership on the local school board. Electing a school board member to represent them would provide direct representation for Indian people. The second alternative might be the formation of Indian-staffed advisory groups to provide local school boards with input. This input should concern issues that in general impact Indian people, and in particular impact Indian students. The advisory groups might also encourage other Indian citizens to run for and participate in local school boards. This advisory group would be asked for recommendations when questions pertaining to Indian affairs arise. Both of these alternatives would provide more control over education utilizing the system and methods now available.

STICHTING N.A.N.A.I.

nederlandse actiegroep noord-amerikaanse indianen
centraal kontaktadres: M.v.Kinta-Kooke
Kamgras 23
Rotterdam
tel.010 209844
giro 3520900
bank 50.28.19.369 abn

Dutch association, promoting the interests of the North-American INDIANS

ref. Report

Rdam, April 25, '77

Senator James Abouresk, chairman
American Indian Policy Review Commission
New Senate Office Building
Washington DC

Dear Mr. Abouresk,
On behalf of the NANAI, a Dutch foundation to support the North-American Indians, I want to make you a compliment for the firm stand you use to take in defending the rights of the Indian people in the United States.

Recently we learned about the report which has been released by your Commission, and we wonder, especially now that it is said to be very controversial, if it would be possible for us to obtain a copy.

Futhermore we want to ask you if you feel sure that the revision of the position of the tribal governments does not create a possibility for the State and/or Federal Government to justify their own neglecting because they do not any longer consider things to be their duty (like the Federal Government did in the past after several of its commitments were transmitted to the States). We think about situations like on Pine Ridge during the administration of Dick Wilson, when none of the higher authorities seemed to bother that Wilson was in fact turning a democratic form of government into a dictatorial one. We hope that after the revisions as suggested by your Commission this will and can not be the case. Thank you.

Faithfully yours,

Margreet Anceaux,
secretary of the NANAI.

THEODORE W. TAYLOR
700 N. FREDERICK STREET
ARLINGTON, VIRGINIA 22203

April 18, 1977

Ernest L. Stevens, Director
American Indian Policy Review Commission
House Office Building Annex No. 2
2nd and D Streets, S.W.
Washington, D.C. 20515

Dear Ernie:

Thank you for sending me a copy of "Tentative Final Report" and related papers.

I regret the necessity for a critical response.

Time constraints prevented me from following the suggested procedure; I would have had to attempt to rewrite every chapter.

Since you were kind enough to offer me an opportunity to comment I have set down some thoughts about policy issues I believe to be crucial.

I understand that these comments will become a part of the formal record of the Commission.

Sincerely,

Ted

Theodore W. Taylor

Enclosure

Theodore W. Taylor, Professorial Lecturer, George Washington University; Consultant; Former Deputy Commissioner, Bureau of Indian Affairs; Author The States and Their Indian Citizens, 1972.

Commentary on "Tentative Final Report" of the American Indian Policy Review Commission (no date on report but transmitted to me under cover letter dated April 5, 1977)

Date of comments: April 18, 1977

The American Indian Policy Review Commission had a golden opportunity to set forth an objective statement of the Indian condition in relation to the rest of society in the United States. Had such a review been made, various policy options, analysis and evaluation thereof, and well reasoned recommendations could have been put forward for consideration. This would have provided a sound basis for decision.

This opportunity was missed in the Commission's "Tentative Final Report."

Hopefully the "Final Report" will be improved, but the time schedule probably will not permit the complete reorientation, new research, and rewrite that would be required. All those dedicated to an honorable and workable Indian policy cannot help but be saddened by this result.

The one bright light was the recognition by Congressman Lloyd Meeds, Vice Chairman, of the broader context of Indian policy considerations. In view of the incomplete, one sided, poorly organized, poorly written, and poorly edited text of the tentative report, Congressman Meeds' well written dissenting views were valuable in calling attention to some of the basic issues that need analysis and attention. Some of these were not considered by the tentative report and others were treated in a one sided and inadequate manner.

My comments follow on what I consider to be some of the important issues:

History

My statement on some aspects of Indian history may be found in The States and Their Indian Citizens, 1972, pp 1-73. Many related considerations and facts are pointed out that are not mentioned in chapter 1 of the "Tentative Final Report." The "death watch" prose of chapter 1 presents a particular view. It does not present other views. The presentation is not objective.

Certainly there were sins of commission and omission, on both sides. Many things happened that most people regret. The Iroquois decimated the Hurons. The Europeans invaded North America. No one alive today was responsible for either event. We do not have to accept the faults or virtues of our ancestors. A review of the history of Indian affairs by the Commission should not be for the purpose of establishing emotional anguish and guilt, but to understand how things came to be as they are now. Chapter 1 does not do a scholarly job of tracing the change of Indians from sovereign groups, to dependent groups, to becoming citizens of the United States. I do not find an analysis in chapter 1 of the implications of United States and state citizenship for Indians; Indian participation in WW I and II; Indian participation in school boards, state and national legislatures, and in executive appointments; Indian participation and leadership in industry; state Indian commissions; the Governor's Interstate Indian Council; the change in Indian culture both on and off the reservation; the divisions of viewpoint in Indian communities between traditionalists and others; the movement of many Indians to metropolitan areas and its significance; the impact of Indian population pressure on Indian resources; the responsibility, in part, of the Indian for land sales that he (the Indian) insisted on; the political realities surrounding the Allotment Act (see pp 224-225, The States...); and the increasing involvement over time of states in services to Indians.

Self-government provisions of the Indian Reorganization Act (IRA) for incorporation and taking over of many responsibilities from the Secretary of

Interior, including Indian resources, were only exercised by three small tribes (The States... p. 24). The opportunity was there. It was not exercised. Commissioner Myer offered multiple options to tribes; few took advantage of them (The States... pp 60, 160).

Progress results from involvement and desire. The Indians control their involvement, acceptance and pace of change. This has been true for most of this century and is certainly true today. This aspect of Indian responsibility, at least in part, for their current condition is ignored in the report.

The promotion of increased subsidy and services without corresponding responsibilities in the report does not live up to the goal of self-sufficiency stated by tribal leaders (The States... p. 256), and perhaps best stated in 1879 by Chief Joseph of the Nez Perce Indians:

> Treat all men alike. Give them all the same law. Give them all an even chance to live and grow.
> All men were made by the same Great Spirit Chief. They are all brothers.
> The Mother Earth is the Mother of all people, and people should have equal rights upon it.
> We only ask an even chance to live as other men live. We ask to be recognized as men.
> Let me be a free man . . . Free to work, free to trade, free to choose my teachers, free to follow the religion of my fathers, free to think and talk and act for myself--and I will obey every law or submit to the penalty.

Sovereignty

It is reported that some foreigners were visiting the Commissioner of Indian Affairs and asked: "How can tribes have a separate sovereignty when all Indians are citizens of the United States?"

The tribes at one time had sovereignty. But they moved from that status to dependent groups. Treaty making ceased in 1871. Citizenship for all Indians was effected in 1924. Indians are also citizens of the states wherein they reside.

Statutes and court decisions over the years reflect this changing status.

Some of them are analyzed in the report (ch. 2) and Congressman Meeds' comments. The court cases and the law leave a foggy area. It should be cleared up.

To me it is not consistent with the constitution to believe that a citizen of the United States can have a sovereignty that derives from some other source than the federal or state governments as representatives of the people. It is easy to understand how the myth of a separate "Indian sovereignty" came about. It used to be true.

The "Tentative Final Report" attempts to enshrine this myth. It would thus provide a basis for perpetuation of a license to have all of the advantages of the greater society, including a considerable subsidy, without the accompanying responsibilities. Any special interest group would go for financial underwriting by the general taxpayer and at the same time complete freedom as to their actions. One cannot blame some Indian zealots for trying. However, one can be aghast at the acceptance of this view by an official governmental commission.

Congress should state bluntly that, as citizens of the United States, Indians have no separate sovereignty. The act should make clear that such governmental authorities as tribes exercise are on the basis of federal statutes. For those tribes not under the IRA or other federal statutes,legislative provisions should be provided. Everyone agrees, even the authors of the "Tentative Final Report," that Congress has power to legislate on all Indian matters.

Federal Trust Responsibility

Federal trust responsibility for Indian land was established to protect that land. It was adopted on the assumption that Indians were not competent to manage the land themselves in the context of the larger society by which they had been engulfed. The trust responsibility extends only to the land and related resources such as minerals, range, and timber.

Other services such as education, welfare, health, and tribal assistance are voluntary governmental actions and not of a trust nature. However, in the main,

they are provided to groups with trust land. Of course, the government officials administering such voluntary services have a fiduciary responsibility to the Congress and the taxpayer to see that public funds are spent in an effective manner for the purposes for which appropriated.

The trustee directs the use of that for which he is responsible, in this case, the use of Indian land. The Indians chafe under this direction.

The "Tentative Final Report" wants it both ways: it wants tribal control over tribal resources (land, timber, minerals) but wants the federal government to continue to be responsible (see 7-49 and 7-57).

This means, the Indians are to control use, but if the use results in adverse effects the trustee (the federal government) is responsible and subject to suit in court and payment of money damages (funded by general taxpayers).

Two dramatic examples (not mentioned in the report) exist today: Papago and Navajo rangelands are heavily overgrazed. As trustee, the Secretary of Interior, through the BIA, is responsible for appropriate management of these lands to maximize the income to the Indian owners consistent with maintaining the productivity of the land. This is not being done. Since at least the 1930s, when the Department tried to restrict Navajo grazing, the trustee has not carried out his responsibility. He has yielded to Indian demands. Overgrazing continues. Top soil from the Navajo reservation is filling up Colorado River reservoirs. Continuation of present policy will be disastrous to the land on both reservations. The Secretary will be responsible. Not only will the Indians and the nation have lost an irreplaceable resource, but the government will be subject to a court judgment for monetary damages.

This issue of proper exercise of the trusteeship is treated only from a one sided view in the report. Its relationship to the broader society is ignored. The trustee should exercise his trusteeship. If the Indians, backed by the general public, will not let him exercise his trusteeship responsibilities, the trusteeship should cease. The Indians should have the responsibility

if they have the control. To do otherwise means that we subsidize them "eating their cake and having it, too."

Self-determination, even if not defined as to its meaning, is certainly inconsistent with maintenance of trust responsibility.

So called "termination" (ch. 10) was basically elimination of the trust responsilibity of the federal government and turning over the responsibility to the Indians themselves or the states. In this sense, everyone in the United States is "terminated" except the Indians. Removal of trust does not affect Indian ownership of land or other resources. It merely removes the federal supervision of such resources. So tribes were never "terminated." They continued as entities if they desired to do so. The federal trust responsibility was "terminated."

Self-Determination

Very few individuals or groups have self-determination in the fullest sense. Those with adequate resources have maximum freedom to determine their own destiny. But even they are limited by socially imposed controls such as statutes relating to crimes, traffic regulations, or informal community mores. When an individual or a group is economically dependent, then the degree of self-determination is lessened. Those under the supervision of a trustee are likely to be even more circumscribed.

"Self-determination" as used with Indians has not been defined. I believe it is completely misleading. As some Indians suspect, if carried very far it may lead to "self-termination"--that is, the cutting off of the trust responsibility of the federal government and perhaps a threat to continued special subsidies of other kinds.

The BIA thoroughly confuses Indians with this slogan of "self-determination." It led Indians to believe that advisory school boards would have final authority in a BIA operated school, even though the BIA was responsible for the school.

The Indians were led to believe that they could select superintendents and other BIA employees on the reservation, even though such were employees of the Bureau and responsible as members of a federal agency to the general public as well as to the Indians. In fact, the Indians have largely followed up this belief, and the Bureau has capitulated. So we have one or more area directors (in charge of BIA regional offices) and some superintendents (in charge of agencies) and heads of Real Estate Management and other programs whose primary loyalty is to their tribe or tribes, and only secondarily to the commissioner or his representative. This would be applauded if public tax revenues and trust responsibilities were not involved. But they are.

Indian policy makers must "fish or cut bait." Either the Secretary and BIA must carry out their responsibilities, or these responsibilities must be transferred to the Indians themselves. The present situation is analogous to giving a fox the key to the hen house, where the fox is the Indian group and the hen house is the public treasury. Congress must act.

Shrinkage of Indian Land Base

Much Indian acreage has changed hands. Indians used to have freedom to roam the North, Central and South American continents. Depending on the date selected, there has been erosion of the base, and it is vividly outlined in chapter 1 and chapter 7 (pp 7-20 to 7-22) of the "Tentative Final Report."

The Indians have played a vital part in this shrinkage since the General Allotment Act of 1887. Allottees were not forced to sell their land. They wanted to sell it for cash. Few reservations were allotted without the consent of the tribe. In general land ceded was done by agreement with the tribe. The proceeds of the sale of ceded land went to the tribe. If the tribe wanted the land more than the money, it need not have ceded; if it changed its mind after cession, the tribe would have taken the proceeds of the sale and purchased land. Did they? No.

The report states:

> Indian opinion is overwhelming that the importance of a stable and adequate tribal land base cannot be over-emphasized. Their economic security and development of tribal economics depend on it; the very survival of Indian cultures and the permanency of Indian tribes as governmental units depend on it (p. 7-20).

This statement may be a statement of belief, but it is not supportable. The Indian land base, under present use, is inadequate to provide "economic security." Tribal investment for economic gain may be squandered in non-economic activities on a reservation. Investment outside of tribal lands may in some instances, prove to be more profitable. With tribal population growing at over twice the national average, population pressure will increase. There is no possibility of providing an agricultural or mineral land base for all Indians. This is why voluntary relocation of Indians has taken place. They go where the economy provides jobs. They go to live permanently, or just to obtain cash and return to the reservation.

Why is the tribal land base necessary for the"survival of Indian culture" and the "permanency of Indian tribes as governmental units?" Those portions of Indian culture considered valid by Indians will survive, regardless of the size of a tribal land base. Indian communities could arrange for local government under state law with all land being individually and/or tribally owned. Menominee was a Wisconsin county for a while.

Many Indian groups and Indian individuals have come into large sums of money from time to time, from mineral royalties, judgments of Indian claims, and sale of other assets. If the compulsion for increasing the land base was so overwhelming (especially the tribal land base) one would think that the majority of such funds would have been invested in land purchases. Has this been the case? No. More likely it was expended in per capita payments to members. The individual Indians are more interested in the cash. Crow and Navajo have purchased additional lands, but they represent the exceptions;

even in these two instances the greatest portion of their cash income has not been invested in land.

Sometimes there is a difference between rhetoric and fact. The "Tentative Final Report" should have noted the difference.

States

The states are largely ignored by the tentative report. In chapter 6 dealing with federal administration there is no mention of them as a possible vehicle for the administration of Indian matters except to question the delivery of federal domestic assistance programs through the states (p. 6-70 and 6-71). Unavoidably, too, the states are mentioned in chapters 5 and 8 since many vital services to Indian communities are provided by the states. Welfare (p. 8-1), health care (p. 8-35), and education (p. 8-111), law and order (p. 5-100 ff.), and child placement (p. 8-10) involve state services.

Nearly 70 percent of Indian students attend public elementary and secondary schools (p. 8-111) operated under state statutes.

My analysis of state potential in Indian affairs is covered in The States .. chapters 3, 4, 5, and 6. These chapters cover information that certainly should be considered in any review of the current Indian situation and options for dealing with it.

Our federal system is very flexible. States can legislate for local jurisdictions in infinite variety. Perhaps this option deserves a hard look. The "Tentative Final Report" ignores this option.

Changing National Policies

Population location policy, population size, income strategy approach to welfare, revenue sharing, and job creation are examples of areas where federal actions may have considerable impact on the ecology of the Indian situation. I wrote about them in 1972 (The States... pp 110-112). There may be other key

policies the commission staff should consider in 1977, five years later, in connection with its overview of the Indian relationship to the larger society.

Federal Obligations to Indians

I agree with the "Tentative Final Report" that the federal government has obligations to Indians with a remaining federal connection. But these obligations are limited in scope. They are: determination of reservation boundaries and the accurate description of trust land; determination of Indian water rights; resolution of the heirship land situation, unilaterally if the Indians cannot collaborate on an acceptable formula; payments to states in lieu of taxes as long as Indian land is non-taxable; settlement of Indian claims; help in developing effective tribal government (The States... pp 115-120).

Self-sufficiency to the same extent as other groups and individuals is the goal. Without Indian desire and involvement it will not be obtained. But I think there is a desire and there will be involvement if a clear-cut sensible Indian policy is legislated by the Congress.

In any event, I do not believe there is a perpetual obligation by the rest of us to the Indian minority (The States... p. 125). This view is not mentioned in the tentative report.

* * * * *

The policy issues discussed above are important to Indians and non-Indians alike. Other issues that I have not mentioned are presented by Congressman Meeds.

The Congress needs to address these issues.

Perhaps a topical list of issues could be developed by House and Senate committee staffs from the tentative report and related comments. Hearings could be held. If there were sufficient consensus, specific legislation could be considered.

CENTRAL COUNCIL
of the
tlingit and haida indians of alaska

130 Seward Street - Rm. 412 Juneau, Alaska 99801
(907) 586-1304, 586-1306 or 586-1293
Manpower Division (907) 586-3405

April 23, 1977

Senator James S. Abourezk
Chairman
American Indian Policy Review Commission
House Office Building Annex No. 2
Second and D Streets, S.W.
Washington, D.C. 20515

Dear Mr. Chairman:

On behalf of the Tlingit & Haida Indian Tribes of Alaska and our Central Council, I would first express our deep appreciation to you, the other members, and the staff of the Commission for the momentous job you have done in reviewing the Indian policy of the United States. I am sure the hope of the Tlingit & Haida Indians that the report and recommendations of the Commission will guide the course of the Indian policy of the Nation for years to come, is shared by most Native Americans. To all who contributed we say: well done!

We, of course, are most especially interested in the Commission's finding (No. 6, p. 12-28) that: "The Tlingit & Haida Indians constitute a single tribal entity of which the Central Council is the general and supreme governing body," and in its recommendation (No. 2, p. 12-32) that: "Congress should enact legislation confirming that the Tlingit & Haida Indians constitute a single tribal entity of which the Central Council is the general and supreme governing body."

We endorse and support this finding and the companion recommendation wholeheartedly. Indeed, at its last meeting in Juneau, after thorough consideration by the delegates, the Central Council on April 7, 1977 unanimously resolved -

> that the President of the Central Council is authorized and directed to seek the enactment by Congress of legislation reaffirming the status of the Tlingit & Haida Indian Tribes as a sovereign and single tribal entity and reaffirming the status of the Central Council as the general and supreme governing body of such entity: provided that nothing in such legislation

> should eliminate the eligibility of any other qualified Native village or community organization within or under the jurisdiction of the Central Council to receive benefits under P.L. 93-638, the Indian Self-Determination and Education Assistance Act, 88 Stat. 2203. 1/

A bill that we believe would implement the recommendation of the Commission and the resolution of the Central Council is attached hereto as appendix B. We respectfully urge its early consideration and enactment.

Although it is disturbing to us, in light of what Congress has done in the past, to have now to seek such legislation, the reasons why we feel it is necessary are suggested in the tentative final report of the Commission (pp. 12-5, 12-14 & 15, 12-17 thru 19). In a nutshell they are that certain officers of the BIA simply refuse to recognize that Congress has confederated the Tlingit & Haida Indians into a single tribal entity and constituted the Central Council as the general and supreme governing body thereof.

Since 1935, Congress has addressed the status of the Tlingit & Haida Indian Tribes and the Central Council in connection with several acts, most importantly those of June 19, 1935 (40 Stat. 388), August 19, 1965 (79 Stat. 543), July 13, 1970 (84 Stat. 431; 25 U.S.C. 1211) and December 18, 1971 (85 Stat. 688; 43 U.S.C. 1601 et seq.).

1935 Act

In this act, by which the Court of Claims was invested with jurisdiction to determine our historic claims against the United States, Congress referred to the "Tlingit and Haida Tribes" (sec. 1); dealt with them as an entity (passim); and assigned to the central council the task of compiling a roll of their members (sec. 7). See also Tlingit & Haida Indians of Alaska, et al. v. United States, 147 Ct. Cl. 315, 177 F. Supp. 452 (1959); 182 Ct. Cl. 130, 389 F.2d 778 (1968). 2/

1/ Resolution No. 77-78-2 of the Central Council. A copy of the complete resolution is attached hereto as appendix A.

2/ For example, in the second paragraph of the last cited opinion the court states:

> By our decision of October 7, 1959 . . . we held that the Indians, as a tribe, had established aboriginal Indian title to six designated areas on the Alaskan

(footnote cont'd. over)

1965 Act

Reporting, by letters of March 16 and March 10, 1965, to the Chairmen of the Senate and House Interior Committees, respectively, on the need for the 1965 legislation, the Undersecretary of the Interior said in part:

> We feel that the substitution of the proposed new language for sections 1, 7 and 8 of the 1935 act will provide much greater administrative flexibility for this Department and for the Indians in programming a Tlingit and Haida award. Furthermore, it will create a representative tribal governing body with all the authority necessary to work with the Bureau of Indian Affairs and with the smaller organized groups of Tlingits and Haidas. The absence of any such body has greatly handicapped both the Bureau and the Indians during the past 30 years. (Emphasis supplied) 1/

At the hearings before the House Subcommittee on Indian Affairs on the bill that eventuated in the 1965 act, Congressman Haley, chairman of the subcommittee, asked the following question of Interior's principal witness, Mr. Graham E. Holmes (then Assistant Commissioner for Legislation, BIA), and received the following answer:

> Mr. HALEY. I want to know, Mr. Holmes, the urgency of this matter. Is there some overriding urgency involved here? I want to know is this an organized tribe? Is there somebody we can deal with here.
>
> I understand there are about 15 different clans or whatever you have here and as far as I have been able to find out, there is no legal organization [with] which the Bureau of Indian Affairs may deal. I want to hear something along that line.

2/ (cont'd.)

> archipelago by their exclusive use and occupancy of that territory from time immemorial. In redress for the uncompensated and uncontested taking by the United States, equitable and just compensation, as provided for in the Act, was held owed to the Tlingit and Haida tribes. (Emphasis supplied)
>
> * * *

1/ Letters reprinted in Hearings on H.R. 874 Before the Subcomm. on Indian Affairs of the House Comm. on Interior and Insular Affairs, 89th Cong., 1st Sess., ser. 4, at 2 and 117 (to chm. Aspinall) and 110 (to chm. Jackson) (1965).

Mr. HOLMES. That is one of the problems involved. Now, under the present law, in the 1935 act, there is a provision for a central committee but there is no provision in the act for arriving at or determining how the central committee is to be made up.

There is an organization which we feel is representative of the Tlingit and Haida Indians generally but any time a group of these people band together they call themselves the central committee and they apparently can speak and have as good a claim to being the central committee as the group that we feel is more representative. This proposed bill cures this situation because it sets up a method of selecting a representative group which can be dealt with and can be recognized as representing the Tlingit and Haida people generally, whereas under the present law there is not any way to determine how the central committee is to be selected and there is really no official organization that is organized under any of the statutes of the United States with a recognizable organization. (Emphasis supplied) 1/

The Senate Report (S. Rept. No. 159, 89th Cong., 1st Sess. (1965)), 2/ which accompanied the bill that eventuated in the 1965 act, describes the need for the legislation in part as follows:

Because the 1935 law did not specify how the central council would be established and function, no recognized representative tribal governing body has existed, and this has been a severe handicap to the tribe and to the Bureau of Indian Affairs in arriving at a consensus of how the judgment should be used. (Emphasis supplied)

The House Report (H. Rept. No. 521, 89th Cong., 1st Sess. (1965)) 3/ notes that the 1965 legislation was intended to amend the 1935 act in three principal respects:

* * *

2. The existing Central Council of the Tlingit and Haida Indians is recognized, provided its future members are elected pursuant to rules and regulations found by the Secretary

---

1/ Hearings, cited in preceding note, at 16.

2/ Reprinted in Hearings, supra, at 108 et seq.

3/ Reprinted in Hearings, supra, at 115 et seq.

of the Interior adequate to assure fair representation of the Tlingits and Haidas wherever they may live in the United States or Canada. (Emphasis supplied)

3. The council is authorized to prepare plans for the use of the judgment money, including per capita distribution, and the Secretary of the Interior is authorized to prepare a roll of persons of Tlingit or Haida blood residing in various communities or areas of the United States or Canada on the date of the act. Actual use or distribution of the funds will, however, await a further act of Congress, except for those needed for organizational, administrative and litigation expenses, and the like.

While it is undisputed that a principal focus of the Congress and the Department of the Interior in 1965 was on enhancing the organizational capacity of the Tlingit and Haida Indians to prosecute their claims against the Government and to administer the anticipated proceeds, it is equally clear that it was intended and contemplated that the Central Council provided for by the 1965 act, when organized in accordance with the requirements thereof, was to be recognized as the general and supreme governing body of the Tlingit and Haida Indians for all purposes, and not just for those related to their claims.

No other conclusion can be squared with the history of the 1965 act.

That history also demonstrates beyond cavil that the act was understood and intended 1) to superimpose the Central Council as a regional governing body over Tlingit and Haida villages and communities without regard to whether they had previously organized under the Indian Reorganization Act, and 2) to settle, once and for all, the issue of what organization would be recognized as representative of the Tlingit & Haida Tribes as a whole.

Following enactment of the 1965 act, the Central Council organized under the rules of election approved by the Secretary of the Interior and a constitution. Copies of these documents are attached hereto as appendices C and D, respectively.

As can be seen from the rules of election, the Central Council is a democratically elected body, truly representative of all the Tlingit and Haida Indians.

Article I of the Constitution of the Central Council provides:

The functions of the Central Council of the Tlingit and Haida Indians of Alaska shall be to serve as the general governing body of the Tlingit and Haida Indians of Alaska, to promote their welfare, and to exercise the powers granted by the Act of June 19, 1935 (49 Stat. 388), as amended by the Act of August 19, 1965 (79 Stat. 543), and such other powers as it may lawfully exercise or be granted.

Section 1 of Article V in part provides:

Subject to applicable laws and regulations of the United States, the Central Council shall have full powers to govern, conduct and manage the affairs and property of the Tlingit and Haida Indians of Alaska, including, without limitation, the following:

* * *

b. To negotiate and enter into contracts with persons and entities of every kind and description, public and private;

* * *

f. To consult with and advise any and all persons, officers, and entities, public and private, concerning subjects and matters affecting the interests of the Tlingit and Haida Indians of Alaska.

g. To charter or otherwise authorize and provide for the organization of subordinate groups or entities to perform governmental or proprietary functions for the Tlingit and Haida Indians of Alaska, and to delegate to such subordinate groups or entities such powers as it shall decide under such rules and regulations and subject to such limitations and conditions as it shall prescribe;

* * *

The Central Council has been operating under these organic documents for more than a decade with the full knowledge and approval of the Congress and the Department of the Interior.

1970 Act

The 1965 act stipulated, should the Tlingit & Haida Tribes recover a judgment against the United States, that the funds appropriated to pay the same should "not be available for advances, except for such amounts as may be necessary to pay attorney fees, expenses of litigation, organizational, operating and administrative expenses of the official Central Council, and expenses of program planning, until after legislation has been enacted that sets forth the purposes for which said funds shall be used."

In January 1968, the Tribes recovered a judgment against the United States in the total amount of $7,546,053.80, and Congress appropriated funds to pay this judgment in July of that year.

Bills providing for the use and disposition of the judgment funds were introduced in both houses of Congress in 1969, and extensive hearings were held, particularly by the Senate Subcommittee on Indian Affairs, in 1970. 1/

By testimony, written communications, and the submission of exhibits for the record, the President of the Central Council thoroughly informed both the Senate and House subcommittees about the organization, operations, and accomplishments of the Central Council.

Writing on March 6, 1970, to Senator McGovern, chairman of the Senate subcommittee, he pointed out:

> The Central Council functions as the general governing body of the Tlingit and Haida Indians. The Council was recognized and established as an official organ for the governance of the Tlingit and Haida Indians by an act of Congress approved in 1965. This act required the Council to prepare and submit for approval to the Secretary of the Interior a set of rules for the election of delegates that

---

1/ Hearings on S. 2628 and S. 2650 Before Senate Subcommittee on Indian Affairs of Comm. on Interior and Insular Affairs, 91st Cong., 2nd Sess. (1970).

would insure that the Council would be representative and democratic. The Rules of Election formulated by the Council and approved by the Secretary in 1966, together with the Constitution of the Council, are the principal organic documents of the Tlingit and Haida Indians. . . .

The Rules, among other things, designate the communities eligible to elect delegates to the Central Council (there are 18 such communities at the present time), and prescribe the terms of delegates, the qualifications of electors, the representational formula, and the duties of local election officials. They also set out the procedures for the nomination of candidates, for the registration of voters, for the conduct of elections, and for the casting of absentee ballots.

The Constitution establishes the Central Council as the general governing body of the Tlingit and Haida Indians and provides that, agreeably to the laws and regulations of the United States, it shall have, among others, the powers to acquire and dispose of property; to enter into contracts; to borrow and raise money; to employ persons to render professional, technical and other services; to authorize the use and expenditure of funds belonging to the Tlingit and Haida Indians; and to authorize and provide for the organization of subordinate entities to perform governmental and proprietary functions. (Emphasis supplied) 1/

Commenting on the Senate bills, as Acting Secretary of the Interior, Russell E. Train observed that:

The 1935 Act . . . was further amended by the Act of August 19, 1965 (79 Stat. 543), to provide for a Central Council to represent the Tlingit and Haida Indians.

* * *

1/ Letter is reprinted in Hearings cited in last previous note, at 53-55.

The Central Council of the Tlingit and Haida Indians of Alaska is presently composed of delegates from 18 communities with representative population of Tlingit and Haida Indians. 1/

And the Department of the Interior itself supplied Congress, among the material submitted with the Acting Secretary's comments, Resolution No. 68-69 - 2 of the Central Council, calling for the organization or reorganization of the Tlingit and Haida communities as constituent parts of the Central Council, and the model community constitution suggested for this purpose by the Central Council. 2/

Constitutions along the lines of the model have since been adopted by most, if not all, of the communities represented on the Central Council. It is the Community Councils organized in this manner, as constituent and subordinate parts of the Central Council, that are now functioning as the general governing bodies of these communities.

Having thoroughly reviewed the organic documents, structures, operations and achievements of the Central Council, the Interior Committees of both houses of Congress filed reports to accompany the judgment fund distribution bills that unequivocally set forth their understandings of the status of the Central Council.

The Senate report states, without qualification:

> A 1965 statute authorized a Central Council as the governing body of the Tlingit and Haida Indians. (Emphasis supplied) 3/

1/ Letter of December 19, 1969, to Senator Jackson reprinted in Hearings, supra, at 2-4.

2/ Hearings, supra, at 33-36.

3/ S. Rep. No. 91-848, 91st Cong., 2d Sess., 1, (1970).

It is noteworthy that the Senate Committee was so impressed by the organization and achievements of the Central Council that it concluded the Council was fully capable of managing the funds and (footnote cont'd. over)

The House report states, without limitation:

> Under a 1965 statute a Central Council was organized as the governing body of the Tlingit and Haida Indians, and it has been functioning effectively since then. (Emphasis supplied) 1/

In light of what preceded the filing of these reports, the use of the definite (and exclusive) article "the," in the phrases "the governing body," used therein was clearly considered and intentional.

3/ (cont'd.)

affairs of the Tlingit & Haida Indian Tribes without supervision by any outside agency, and reported a bill authorizing use of the judgment funds by the Council from which the conventional requirements of the Secretarial oversight had been purposefully omitted. The Committee stated:

> The general pattern that has been used for most tribes in recent years when per capita distributions were not contemplated is to authorize the money to be used for any purpose authorized by the tribe and approved by the Secretary of the Interior after the Congress is satisfied that the tribe's general plans are sound. However, in the case of the Tlingit and Haidas, the Committee has stricken the language which would make the tribal plans subject to being "approved by the Secretary of the Interior." These Indians have demonstrated that they are capable of managing their own affairs. They have developed sound plans for the use of their judgment funds and the Committee believes they can carry out those plans without any oversight by the Secretary. S. Rep., supra, 2.

1/ H.R. Rep. No. 91-881, 91st Cong., 2d Sess., 1 (1970).

1971 Act

Again and again, in connection with its consideration of proposals to settle the overall claims of the Alaska Natives (which culminated in the Alaska Native Claims Settlement Act of December 18, 1971), the attention of Congress was called to the structure and activities of the Central Council as the general governing body of the Tlingit and Haida Tribes. 1/

Testifying before the Senate Interior Committee on April 29, 1971, the President of the Central Council referred again to the fact that the Central Council is the general governing body of the Tlingit and Haida Indians, and was granted leave by the chairman to submit a sketch of the organization and accomplishments of the Council for the record. Thereafter, he advised the chairman by letter of May 7, 1971, that the additional material he desired to present was contained in a document entitled: "Alaska Native Land Claims and Post Settlement Planning," already a part of the record.

The document referred to is printed in Hearings on S. 35, et al. Before Sen. Comm. on Interior and Insular Affs., 92d Cong., 1st Sess., pt. 1, 357-361 (1971), and canvasses the organization and activities of the Central Council as the general governing body of the Tlingit & Haida Tribes.

Section 7 of the Alaska Native Claims Settlement Act of December 18, 1971, in part provides:

> For purposes of this Act, the State of Alaska shall be divided by the Secretary within one year after the date of enactment of this Act into twelve geographic regions, with each region composed as far as practicable of Natives having a common heritage and sharing common interests. In the absence of good cause shown to the contrary, such regions shall approximate the areas covered by the operations of the following existing Native associations:
>
> * * *
>
> (10) Tlingit-Haida Central Council (southeastern Alaska, including Metlakatla);
>
> * * *

1/ See, e.g., Hearings on S. 1830 Before Senate Comm. on Interior and Insular Affs., 91st Cong., 1st Sess., pt. 2, at 333 (1969) Hearings on H.R. 13142, et al., Before House Subcomm. on Indian Affairs of the Comm. on Interior and Insular Affairs, 91st Cong., 1st Sess., pt. II, at 510 (1969); Hearings on S. 35 and S. 835 Before Sen. Comm. on Interior and Insular Affs. 92nd Cong., 1st Sess., pt. 1, at 357-361 (1971).

The act specifically designated the Central Council as the existing organization having exclusive authority and responsibility on behalf of the Natives of Southeast Alaska to implement its provisions, including, among other things, to secure the organization of the regional corporation for the Natives of southeastern Alaska (Sealaska Corporation).

Three times since 1965 Congress has addressed issues involving the organization for purposes of self government of the Tlingit & Haida Indian Tribes.

In 1965, it was advised by the Department of the Interior of the need to provide for the organization and recognigition of a tribal governing body, truly representative of these Tribes, with which the Department could deal, not just in connection with matters relating to their claims against the Government, but generally.

Congress responded by passing the 1965 Act, which it had been informed by the Department would accomplish this purpose. The reports of the Interior Committees which underlie that act show beyond cavil that this is what Congress understood and intended to be its effect.

Thereafter the Central Council was organized in accordance with the requirements of the 1965 act under rules of election and a constitution which expressly established it as the general and supreme governing body of the Tlingit & Haida Tribes.

These documents and the operations of the Central Council since its organization have subsequently been laid before and considered by Congress in connection with the enactment of the Tlingit & Haida judgment fund distribution act of 1970, and the Alaska Native Claims Settlement Act of 1971.

In their reports accompanying the bills that became the 1970 act, the Interior Committees of both houses of Congress unequivocally stated their understandings that the Central Council organized under the 1965 act is "the governing body of the Tlingit and Haida Indians."

And, in the Alaska Native Claims Settlement Act of 1971, Congress assigned the implementive and organizational responsibilities for the Natives of Southeast Alaska exclusively to the Central Council.

93-440 O - 78 - 54

In light of these acts of Congress and of their histories, there can be no legitimate doubt that the Tlingit & Haida Indian Tribes have been recognized by Congress as a single tribal entity or that the Central Council has been constituted as the general and supreme governing body thereof.

The legislation we seek is not intended to change the status of the Tlingit & Haida Tribes or the Central Council but simply to confirm them in terms too clear to be evaded by the Bureau of Indian Affairs.

It took the Tlingit and Haida people many years to evolve a strong central government that could speak and act for the Tribes as a whole. As the history of the 1965 act shows, until that time at least, the Bureau actively assisted us in our efforts to constitute a Central Council that, taking precedence over our numerous smaller clan, village and community organizations, could function as the supreme governing body of the Tlingit & Haida Tribes as a whole. The Central Council is not the aggregate of smaller Tlingit and Haida organizations, rather the latter are now subdivisions of the Council. The constituents of the Central Council are all of the Tlingit and Haida Indians as individuals.

As the Commission remarks, for over six years the Central Council has been managing the BIA's Southeast Alaska Agency and administering Native affairs in that area under contract with the Department of the Interior. The continuation of this highly successful contract, one of the first of its kind, is presently threatened by the area director's misunderstanding of the legal nature of the Central Council and misconstruction of the Indian Self Determination Act. His insistence on the primacy, for purposes of the Self Determination Act, of such entities as village councils organized under the Indian Reorganization Act, if unchecked, will refractionalize the Tlingit & Haida Tribes - will restore the very condition that the Congress, the Tlingit and Haida people, and the Secretary of the Interior struggled so long to remedy. While he arrays his undertaking to redivide our people and debilitate our strong central government in the garments of idyllic democracy and the rhetoric of local option, it still stinks of paternalism and of the bureaucrat's hoary tactic of "divide and dictate."

The legislation we propose to reaffirm the status of the Tlingit & Haida Tribes and the Central Council would not eliminate the eligibility of any of the otherwise qualified smaller organizations of Tlingit and Haida Indians to apply for or receive benefits under the Self Determination Act or any other act or program. It would simply confirm, as is the case under existing law, that they are subordinate to the Central Council and that, for purposes of federal laws and programs making benefits available to Indian groups, the Central Council is superior and takes precedence over such smaller organizations where they come into competition.

We generally agree with and endorse the Commission's findings and recommendations relative to Alaska.

Other than the Tlingit & Haida Tribes and the Central Council, we know of no Native entity or governing body embracing the whole of an ethnic group and/or the whole of a geographic region that has been recognized as a tribal entity or governing body by the United States.

Provision should be made to permit other Native groups to organize and be recognized along larger ethnic and/or regional lines so as to be better equipped to receive and utilize the benefits made available by federal laws and programs for Native tribes and peoples.

We agree with the Commission's conclusion that, for purposes of such laws and programs, larger groups should generally be given precedence over smaller, and tribal type organizations should generally be given precedence over other types (e.g., Native business corporations organized under the Settlement Act).

The Central Council has had considerable experience in administering the benefits made available under a variety of federal programs. Such administration requires infrastructure, trained staff, and money. The experience of the Council is that it usually takes about the same amount of these things to operate a program in one community as it does on a region wide basis. Where a regional organization has the will and capacity to provide a service to all or several of the Native communities within its area, it quite simply offends the first principles of economics and equity to permit one or more community organizations to attempt to provide that service in a single community. The people to be served are no less constituents of the regional organization than they are of the community organization and to permit one or more of the latter to tap a resource that the regional organization proposes to use for the benefit of all of its constituents is grossly inequitable to those in other communities.

With respect to chapters 6, 7 and 8 of the Commissions tentative final report we would offer the following comments.

Chapter 6

The Central Council has a number of contracts with the state and federal governments pursuant to which it provides a variety of services to the Natives of southeast Alaska. A few of these contracts are self supporting but most require contributions in money or in kind from the Council. Several of the current programs the Council is operating under contracts, such as our housing, electrification and manpower training programs, could not have succeeded had the Council not been willing and able to defray the rather substantial front end costs of procuring them. Other of our programs, for example our ACTION program and our development planning program funded in part by grants from the Economic Development Administration, require continuous subsidization by the Council.

At its last meeting held earlier this month, the Council adopted a budget that eliminates such subsidies beginning in fiscal year 1978. The taking of this action was a traumatic experience for the delegates for our communities have benefited greatly from assistance given by the Council's planning staff and ACTION volunteers. But the fact of life is, if the Council is to remain solvent, it can no longer afford to invade its modest capital resources (trust funds amounting to about $5.5 million) to support programs that do not carry their own administrative burdens. Further, it is doubtful that the Council can long continue to underwrite the front end costs of obtaining major new programs to promote the social and economic development of our people.

Accordingly, we wholly support the recommendations contained in chapter 6 of the Commission's report that, if implemented, would result in more complete and predictable funding of federal programs for Native peoples.

While the Tlingit & Haida Tribes compose the third largest recognized tribal entity in the United States in terms of population, our income is modest. Currently, it consists largely of the interest earned on our trust funds in the Treasury and of the "profits" we make on such of the contracts we have that provide for the payment of part of the Council's overhead expenses. Inflation and other factors are seriously impairing our ability to serve. 1/

1/ We would welcome an opportunity to expand on the need for more complete funding of programs designed for the benefit of Native tribes and peoples before the Congressional committees on Indian Affairs.

The Council is in the process of preparing an analysis of the Indian Financing Act that we hope to present to Congress on an appropriate occasion. In summary, however, we have concluded that as currently interpreted and administered its benefits are being made available in an unbalanced and inequitable fashion. The Tlingit & Haida Tribes have found it of no benefit to them whatsoever. In fact, because of BIA's interpretation of certain provisions, our members, on an individual basis, have been denied eligibility because the Central Council had a small business loan program of its own. Ironically, we had to terminate this program in order to lift this disqualification which the BIA gratuitously laid on our people.

Chapter 7

This chapter is somewhat disappointing to the Tlingit & Haida Tribes. While the recommendations relative to economic development address several specific problems, they do not focus on the most important of all, the means by which tribes, particularly those with modest resources, can assure their economic survival.

The programs of the Central Council are top heavy in attempting to improve the social and economic conditions of our people. They are designed to deal with such things as the problems of our elderly, of civil rights, of alcoholism, of cultural preservation and of inadequate housing, health care, education and welfare. Needless to say these are all of tremendous importance to our people but they all cost rather than make money. The survival of a tribe as an entity requires that it be able to make as well as to spend money and that it keep its income and outgo in balance. An Indian tribe, no more than any other entity, can survive if it continuously dips into its capital to finance current operations. We feel the report is deficient in not addressing this most basic problem and recommending means by which tribes without large non-wasting assets or resources might secure an economic base to sustain itself as an entity.

One federal agency that is basically staffed and equipped to assist a great deal in connection with devloping the economic base and viability of tribes is the Economic Development Administration in the Department of Commerce. The omission of consideration of what more might be done through EDA to financially undergird Indian tribes is, in our view, a substantial oversight in chapter 7 that should be corrected. We believe a recommendation should be made for legislation that would significantly upgrade the Indian programs of EDA, broaden its authority to assist with the development of tribes as economic entities, and increase the funding available for such purposes.

Chapter 8

We generally agree with the findings and recommendations contained in chapter 8 but would offer some comments based on our experience in contracting.

In undertaking to deal, for example, with problems of education, unemployment, alcoholism and health care, we have found that programs under which we might obtain funds to address certain limited aspects of the total problems are offered by several agencies, for example by BIA, CETA and NIAAA. In the area of higher education, programs available from BIA overlap those available under the Comprehensive Employment Training Act. In the area of health care, overlapping programs to train people for health careers are offered by the Indian Health Service, BIA and HEW.

We have encountered great difficulty in integrating the resources apparently available from these various sources into a comprehensive program to deal with problems we have identified. We know for example that a problem of alcohol abuse is frequently seated in unemployment which in turn is seated in want of training. But when we design a program that addresses the total problem of our people who are caught up in this syndrome, we find we can't get it funded because it is too broad gauged to fit the structures of the programs offered by the federal agencies. Greater flexibility is needed in these programs, or in the way they are administered, so that tribes can combine and pool resources from several sources to fund comprehensive programs to solve the problems of their people.

We are repeatedly frustrated in attempts to fund innovative programs from federal sources because the administrators tell us that what we propose doesn't fit their mold. Usually, we wind up accepting a contract or a grant on terms dictated by bureaucrats - under which the programs or services we can provide are substantially less sound and beneficial than those we proposed, while costing as much or more - because this is simpler by a wide margin than trying to educate the minions of the federal agencies.

Again, I would express the appreciation of the Tlingit & Haida Tribes to the Commission for the momentous job it has done.

Sincerely yours,

Raymond E. Paddock, Jr.
President
Central Council of the
Tlingit & Haida Indians

APPENDIX A

CENTRAL COUNCIL
TLINGIT AND HAIDA INDIANS OF ALASKA
12th ANNUAL CONVENTION
APRIL 5, 6, & 7, 1977
Juneau , ALASKA

THCC RESOLUTION 77 - 78 - 2

TITLE: TO DIRECT THE PRESIDENT OF THE CENTRAL COUNCIL TO SEEK LEGISLATION REAFFIRMING THE STATUS OF THE TLINGIT AND HAIDA INDIAN TRIBES AS A SOVEREIGN AND SINGLE INDIAN TRIBAL ENTITY AND THE STATUS OF THE CENTRAL COUNCIL AS THE GOVERNING BODY THEREOF.

SUBMITTED BY:
SELECT COMMITTEE ON RESOLUTION #2
DAVID KATZEEK, CHAIRMAN

WHEREAS, the Tlingit and Haida Indian Tribes of Alaska are historic Indian tribes that have been consolidated and recognized by the United States as a single tribal entity;

WHEREAS, by the Act of June 19, 1935, 49 Stat. 388, as amended by the Act of August 19, 1965, 79 Stat. 543, and other Acts, Congress constituted the Central Council as the general and supreme governing body of the consolidated Tlingit and Haida Indian Tribes; and

WHEREAS, it would be desirable and in the best interests of the tribes and the Central Council to obtain legislation reaffirming their respective statuses;

NOW THEREFORE BE IT RESOLVED, that the President of the Central Council is authorized and directed to seek the enactment by Congress of legislation reaffirming the status of the Tlingit and Haida Indian Tribes as a sovereign and single tribal entity and reaffirming the status of the Central Council as the general and supreme governing body of such entity: provided that nothing in such legislation should eliminate the eligibility of any other qualified Native village or community organization within or under the jurisdiction of the Central Council to receive benefits under P.L. 93-638, the Indian Self-Determination and Education Assistance Act, 88 Stat. 2203.

RESOLUTIONS COMMITTEE RECOMMENDATIONS: DO PASS

REFERRED: SELECT COMM. ACTION: AMENDED AND REC. PASSAGE

CONVENTION ACTION: PASSED UNANIMOUSLY 4/7/77

APPENDIX B

A BILL

To amend the Act of July 13, 1970, 84 Stat. 431 (25 U.S.C. 1211), relating to the Tlingit & Haida Indian Tribes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of July 13, 1970, 84 Stat. 431 (25 U.S.C. 1211) is amended by adding at the end thereof the following: "The confederated Tlingit & Haida Indian Tribes constitute a single recognized tribal entity of which the Central Council, organized as provided by the Act of June 19, 1935, 49 Stat. 388, as amended by the Act of August 19, 1965, 79 Stat. 543, is the general and supreme governing body."

APPENDIX C

RULES FOR THE ELECTION OF DELEGATES TO THE OFFICIAL CENTRAL COUNCIL OF TLINGIT AND HAIDA INDIANS

1. Delegates to the Central Council shall be elected by each of the following Communities:

Anchorage, Alaska	Klukwan, Alaska
Angoon, Alaska	Metlakatla, Alaska
Craig, Alaska	Pelican, Alaska
Haines, Alaska	Petersburg, Alaska
Hoonah, Alaska	Saxman, Alaska
Hydaburg, Alaska	Sitka, Alaska
Juneau, Alaska	Wrangell, Alaska
Kake, Alaska	Yakutat, Alaska
Kasaan, Alaska	San Francisco, California
Ketchikan, Alaska	Seattle, Washington
Klawock, Alaska	

The Central Council may, from time to time, by duly adopted resolutions, designate additional Communities from which delegates shall be elected in accordance with the provisions of these Rules. From time to time the Central Council may also delete from the list of Communities and merge two or more Communities into one.

2. Each Community shall elect one delegate to the Central Council for each 100 persons or fraction thereof registered on the official voting list of that Community. A Community may also elect alternate delegates who may at meetings of the Central Council sit in place of regular delegates not in attendance.

3. Delegates shall be elected for terms of two (2) years and shall serve until their successors are elected and qualified to the Central Council. Vacancies in the offices of delegates from any Community shall be filled as provided by the Constitution of the Central Council.

4. Voting by proxy will not be permitted.

5. Each eligible person of Tlingit and Haida blood, as defined in Rule 21 (b) of these Rules, who is at least 18 years old on or before the date of any regular election held under these Rules, shall be entitled to register on an official Community voting list as follows:

   (a) the roll of the Community where he resides as defined in Rule 21 (h) of these Rules.

   (b) if he does not reside within a Community, the roll of the Community nearest to the place where he resides; provided, that it is within 100 miles of the place of his residence.

   (c) if he does not reside within a Community or within 100 miles of a Community, the roll of any Community of his choice.

6. Registration to vote shall be accomplished by completing and filing with the Registrar of the appropriate Community the registration form prescribed by the Central Council. The Local Election Committee shall publish, in accordance with Rule 21 (f) of these Rules, not less than 50 days in advance of the final date for registering, a notice setting forth (a) the period and final date for registering to vote which final date shall be not less than ten days prior to the election, and (b) the place for obtaining and for filing the registration form.

Registration forms shall be delivered by the Registrar to all calling in person, and, upon request, shall be mailed or otherwise delivered to persons desiring to register who will be temporarily absent from the Community throughout the period of registration, or who, by reason of illness or disability, are unable to call in person for them.

7. The Registrar of each Community shall prepare an alphabetical list of all persons registering to vote in that Community. This official voting list shall be open to inspection by local membership, and any person eligible to appear thereon may challenge the inclusion of the name of any person on the official voting list of the Community by filing a written protest with the Local Election Committee no later than seven days prior to the election date. The Local Election Committee shall dispose of such protests no later than five days preceding the election date. The decision of the Local Election Committee shall be final, except that the registration and election procedures and the rolls of Communities may be reviewed by the Central Council to assure that they conform to these Rules, and the Constitution and resolutions of the Central Council. The registrar of each Community shall work closely with the Central Council and provide the Central Council with a copy of the official voting list of his Community. If any protest is upheld, the protested name shall be stricken from the list.

8. Subject to the provisions of these Rules, and the Constitution and any applicable resolutions of the Central Council, nominations of candidates for the offices of delegates from each Community shall be made in accordance with procedures prescribed by the Local

Election Committee, in accordance with Robert's Rules of Order. The name of each qualified nominee shall be placed on an official ballot. In order to qualify as a candidate or nominee for election as a delegate from any Community, a person must be registered on the official voting list of that Community.

9. The Local Election Committee Chairman of each Community shall arrange to publish, in accordance with Rule 21(f) of these Rules, not less than 30 days before an election, a notice setting forth:

   (a) the date of election;

   (b) the names of the qualified nominees;

   (c) the place and hours the polls will remain open; and

   (d) the procedures to be followed for voting, including those for absentee voting.

10. The Local Election Committee of each Community shall conduct elections by:

   (a) preparing and having available at each polling place on election day a sufficient number of official ballots;

   (b) seeing that no person whose name does not appear on the official Community voting list receives a ballot;

   (c) seeing that the ballot is cast by the voter and that the voting list is checked to show such person has voted;

   (d) making and keeping a record of the absentee ballots mailed or delivered, showing to whom mailed or delivered, the date thereof, the address of the absentee voter, and the date of return of the ballot and from whom received;

   (e) keeping the ballot boxes locked at all times except when the ballots are being counted;

(f) counting the regularly cast ballots and absentee ballots immediately after the close of the polls on the day of election;

(g) certifying promptly the election returns to the Central Council following all elections;

(h) returning all ballots cast and all unused and spoiled ballots to the ballot box, which box shall be marked and sealed and retained by the Chairman of the Local Election Committee until the term of the Local Election Committee expires, at which time the ballots shall be destroyed.

11. Each registrant on the official voting list of a Community may vote for the number of delegates that the Community is entitled to elect. The corresponding number of candidates in each Community receiving the highest number of votes shall be declared elected.

12. Local Election Committees and Registrars shall be selected pursuant to the Constitution or resolutions of the Central Council. No person shall serve as a Community Registrar or as an election official if he is a candidate in an election.

13. The polls shall remain open in each Community during the hours fixed by the Local Election Committee. The Local Election Committee shall be represented at each polling place.

14. Voting shall be by secret ballot. Any registrant on the official voting list may vote by presenting himself at the polls of the Community in which he is registered, within the prescribed voting hours, announcing to the officials his name and address, marking and placing in the ballot box the ballot which shall be handed to him. A registrant who is a permanent non-resident of the Community where he is registered,

or who expects to be absent from the Community on election day, or who is ill or disabled, and duly causes the Local Election Committee to be notified of such circumstance, shall be entitled to vote by absentee ballot as provided by Rule 15 of these Rules.

15. The Local Election Committee shall give or mail ballots for absentee voting to registrants who make requests therefore in sufficient time to permit such registrants to execute and return the same on or before the close of the polls on the date of election. Together with the ballot, there shall be delivered to such absentee voter:

(a) an inner envelope bearing on the outside the words "Absentee Ballot;"

(b) an outer envelope addressed to the Local Election Committee; and

(c) a certificate in form as follows:

I, _____, do certify that I cannot appear at the polling place on the date of election because (here indicate one of the following reasons):

☐ I am a permanent non-resident

☐ I expect to be absent from the Community

☐ of illness

☐ of physical disability

I understand that if I do not return by ballot before the polls close on election day, or do not return the completed and signed certificate along with my ballot, my ballot will not be counted. I further certify that I have marked the accompanying ballot in secret.

(signed)_____
Voter

The voter shall mark the ballot, place it in the envelope marked "Absentee Ballot," seal the envelope and place it and the completed and signed certificate in the outer envelope, and seal and mail it or cause it to be timely delivered to the Local Election Committee.

16. Any registrant may challenge the election results of his Community within three days of the announcement of such results by filing, with the President of the Central Council or the Chairman of a duly constituted committee of the Central Council, a written challenge including therein his grounds therefore and substantiating evidence. If, in the opinion of the Central Council or the duly constituted committee of the Central Council, as the case may be, the objections are valid and are of the nature to so warrant, it shall order a re-count of all ballots cast in the Community or a new Community election. Should a new election be ordered, the previous nominees who qualify shall be the candidates and the notice of election and election procedure shall be as above provided.

17. The Central Council shall, pursuant to its Constitution, or by resolutions, prescribe the period for holding general elections of delegates. Provisions and procedures for general elections shall conform to the election provisions and procedures of these Rules.

18. The official voting list of each Community shall continue in effect from year to year. Prior to the holding of any general election of delegates who shall take office upon or following the expiration of the term of office of their predecessors in office, and during a period which shall be prescribed or approved by the Central

Council, the Registrar of each Community shall publish a notice in accordance with Rule 6 of these Rules that the official voting list shall be opened to receive new registrations for a specified period of not less than 20 days. Upon the completion of the official roll of the Tlingit and Haida Indians called for in the Act of June 19, 1935, as amended, each Registrar shall adjust the official voting list of his Community by striking therefrom the name of any registrant whose name is not on such official roll. The Registrar shall delete from the official Community voting list the names of all deceased persons and persons no longer eligible to remain as voters of that Community. Written notice sent by first-class mail to his last known address shall be given to any living person whose name is deleted. Any person eligible to appear on an official voting list of a Community as provided by these Rules may challenge the addition or deletion of any names on the list of that Community in a like manner as provided in Rule 7 of these Rules.

19. The expenses incurred in complying with these Rules which may be allowable for payment or reimbursement under the provisions of the Act of June 19, 1935 (49 Stat. 388), as amended, shall be supported by appropriate records and certified to the Central Council.

20. These Rules may be amended from time to time, subject to the approval of the secretary of the Interior, by the Central Council.

21. Definitions - As used in these Rules:

(a) "Central Council" means the official Central Council of Tlingit and Haida Indians as defined in Section 7 of the Act of June 19, 1935 (49 Stat. 388), as amended by the Act of August 19, 1965 (79 Stat. 543).

(b) "Eligible person of Tlingit or Haida blood" means only a person of Tlingit or Haida blood residing in the United States or Canada who was a legal resident of the Territory of Alaska on June 19, 1935, or prior thereto, or who is a descendant of a person of Tlingit or Haida blood who was a legal resident of the Territory of Alaska on June 19, 1935, or prior thereto.

(c) "Community" means a Community included on the list set forth in Rule 1 of these Rules as amended from time to time by the Central Council pursuant to Rule 1 of these Rules.

(d) "Local Election Committee" means a Local Election Committee whose members are selected for a Community pursuant to Rule 12 of these Rules.

(e) "Registrar" means a Registrar selected for a Community pursuant to Rule 12 of these Rules.

(f) "Publish" means to give notice by newspaper, radio television, continuous public posting of notices, any other news media, or by any one or more of these methods as designated by the Local Election Committee.

(g) "He, him, or his" means he or she, him or her, his or hers.

(h) "The Community where he resides" means the Community in which he makes his home, owns real property, or votes in state elections; except that a person who resides in Ketchikan who is formerly a resident of Saxman may elect to be regarded as a member of Saxman for purposes of these Rules, and except that a person who resides in Haines who is formerly a resident of Klukwan may elect to be regarded as a member of Klukwan for purposes of these Rules.

93-440 O - 78 - 55

APPROVAL

Pursuant to Section 7 of the Act of June 19, 1935 (49 Stat. 388), as amended by the Act of August 19, 1965 (79 Stat. 543), and to authority delegated to the Area Director, Juneau, by letter of September 15, 1970, from Harrison Loesch, Assistant Secretary of the Interior, the foregoing Rules for the Election of Delegates to the Official Central Council of Tlingit and Haida Indians, incorporating amendments adopted by appropriate actions of the Central Council and the Executive Committee at meetings held in Wrangell, Alaska on March 25-27, 1971, are hereby approved this _____ day of _____, 1971.

Area Director
Juneau Area Office

CENTRAL COUNCIL

TLINGIT AND HAIDA INDIANS OF ALASKA

CONSTITUTION OF THE CENTRAL COUNCIL OF THE TLINGIT AND HAIDA INDIANS OF ALASKA

ADOPTED APRIL 17, 1973

AMENDED APRIL 14, 1976

842

APPENDIX D

849

ARTICLE I

FUNCTIONS

The functions of the Central Council of the Tlingit and Haida Indians of Alaska shall be to serve as the general governing body of the Tlingit and Haida Indians of Alaska, to promote their welfare, and to exercise the powers granted by the Act of June 19, 1935 (49 Stat. 388), as amended by the Act of August 19, 1965 (79 Stat. 543), and such other powers as it may lawfully exercise or be granted.

ARTICLE II

COMPOSITION

The Central Council shall be composed of delegates from designated local communities of the Tlingit and Haida Indians of Alaska who shall be chosen in accordance with Rules of Election adopted and approved as provided in section 7 of the Act of June 19, 1935, as amended.

ARTICLE III

ELECTIONS

Section 1. General elections for selection of delegates to the Central Council shall be held every even numbered year on the first Tuesday in March, unless for compelling reasons the Central Council by resolution shall designate a different day for a particular general election.

Section 2. Unless a Community entitled to elect delegates to the Central Council shall prescribe a different method approved by the Central Council.

a. The Central Council shall appoint the members of the Local Election Committee and the local Registrar for each Community from the names appearing on the current list of eligible voters of the Community; and

b. A vacancy occurring during a term in the position of delegate to the Central Council shall be filled by holding a special election in that Community where a vacancy occurs. The election shall be conducted in accordance with Rules of Election adopted and approved as provided in Section 7 of the Act of June 19, 1935, as amended, except that, prior to such election, the voting roll of the Community need not be opened to receive applications for registration.

ARTICLE IV

MEETINGS

Section 1. The Central Council shall meet annually at a time and place set by the Central Council, provided, that if the Central Council does not fix a time and place for such meeting then it shall be held at the call of the President; be it further provided that the Central Council, unless for some compelling reason, meet annually on the first Thursday in April at a place designated by the Central Council, or the President, if not so designated, at Juneau.

Section 2. Special meetings may be called by the President, or by one-fourth of the delegates provided that the call is sanctioned by the majority of delegates from their local communities. Be it further provided, that the call is in fact a bonafide action complying with the request of the chapter, or chapters, petitioning for the special convention. Resolution of the problematic area, presented by the call, will be the initial order of business with the conduct of other business, as time permits, at the conclusion of the special order of business.

Section 3. At all meetings of the Central Council a quorum shall consist of a majority of the delegates, no business shall be transacted unless a quorum is present. All meetings shall be conducted in conformance with the Constitution and By-Laws of the Tlingit and Haida Indians of Alaska and Robert's Rules of Order.

ARTICLE V

POWERS OF THE CENTRAL COUNCIL

Section 1. Subject to applicable laws and regulations of the United States, the Central Council shall have full powers to govern, conduct and manage the affairs and property of the Tlingit and Haida Indians of Alaska, including, without limitation, the following:

a. To acquire and dispose of property, real and personal, by any and all means, for such consideration and upon such terms as it shall decide;

b. To negotiate and enter into contracts with

persons and entities of every kind and description, public and private;

c. To borrow and raise money by all lawful means, and to pledge the credit of the Tlingit and Haida Indians of Alaska;

d. To employ lawyers and other persons to render professional, technical, and other services of every kind and description;

e. To authorize the advance, expenditure, use, investment and reinvestment of funds on deposit in the Treasury of the United States to the credit of the Tlingit and Haida Indians of Alaska in such manner and for such purposes as may be authorized by Congress;

f. To consult with and advise any and all persons, officers, and entities, public and private, concerning subjects and matters affecting the interests of the Tlingit and Haida Indians of Alaska;

g. To designate communities which may elect delegates to the Central Council, to prescribe the qualifications for delegates, as defined in the Rules of Election, and to determine its membership.

Section 2. The Central Council shall possess such powers as are incident or necessary to the execution of the powers set forth above, and such further powers as it may from time to time be granted.

Section 3. The Central Council shall promulgate By-Laws for the purpose of governing, regulating and guiding the conduct of business.

Section 4. The Central Council may charter or otherwise authorize and provide for the organization of subordinate groups or entities to perform governmental or proprietary functions of the Tlingit and Haida Indians of Alaska, and to delegate to such subordinate groups or entities such powers as shall enable the charter group or entities to function guided by the same limitations as the Central Council.

ARTICLE VI

OFFICERS AND EXECUTIVE COMMITTEE

Section 1. At its first regular meeting after each general election of delegates, the Central Council shall elect from its members the following officers: President, First Vice President, Second Vice President, Third Vice President, Fourth Vice President, Fifth Vice President, and Sixth Vice President, which officers shall serve until their successors are elected and qualified.

Section 2. Upon the death, resignation or removal of an officer, the Central Council shall elect one of its members to serve the remainder of the term.

Section 3. An executive officer who is charged in writing subscribed by not less than one-fourth of the delegates to the Central Council with neglect of duty or gross misconduct may be removed from office by vote of a majority of the delegates; provided, that before a vote on his removal may be taken, the executive officer concerned must have been supplied with the written statement of the charges against him at least ten days before the day of the meeting of the

Central Council at which the vote is taken and given a fair opportunity to be heard in answer to such charges. Other officers shall serve at the pleasure of the Central Council, and actions of the Central Council concerning the removal of officers shall be final.

Section 4. Officers of and delegates to the Central Council shall receive such compensation and allowances, if any, as shall be prescribed by the Central Council, subject to the availability of funds.

ARTICLE VII

FUNCTIONS OF OFFICERS

Section 1. The President of the Central Council shall be its chief executive officer and the chief executive officer of the general government of the Tlingit and Haida Indians of Alaska. He shall preside over all meetings of the Central Council and, subject to its direction, he shall conduct and manage the business of the general government, execute documents and otherwise act for and on behalf of the Central Council and the Tlingit and Haida Indians of Alaska, shall be an ex-officio member of all committees and commissions, and exercise such other powers as may be delegated to him. He may delegate authority to others to perform functions and exercise powers of his office, and appoint committees to assist the Central Council or the President in the performance of their functions. As a member of the Central Council, he is entitled to vote.

Section 2. The Vice Presidents of the Central Council shall assist the President when called upon to do so. In the order of their designation they shall succeed to the office of President upon the death, resignation or removal of the incumbent and serve in that office for the remainder of that term. In the absence of the President from a meeting of the Central Council the Vice Presidents shall preside in order of their designation.

Section 3. The President and the six Vice Presidents of the Central Council shall elect one of the Vice Presidents to act in the capacity of Secretary to the Central Council. It shall be the responsibility of the Secretary to see that an accurate record be kept of all action taken and of business conducted by the Central Council or its officers. He shall promptly transmit copies of all minutes of meetings and resolutions of the Central Council and its officers, to all local Tlingit and Haida Community Councils, and to any Tlingit or Haida upon request. Any other records of the Central Council shall be available for inspection at the main office of the Council during business hours. The Secretary shall also attest the signature of the President or other authorized officer on legal documents executed for or on behalf of the Central Council as the general government of the Tlingit and Haida Indians of Alaska.

Section 4. The six Vice Presidents of the Central Council shall elect one of their members to act in the capacity of the Treasurer to the Central Council, who shall act in that capacity only to conduct ordinary Central Council business.

ARTICLE VIII

FUNCTIONS OF THE EXECUTIVE COMMITTEE

When the Central Council is not in session the Executive Committee whether assembled or not shall possess all of the powers of the Central Council and shall be able to do all things and take all actions which the Central Council could without limitation, except that the Executive Committee shall not have the power to take any action which would constitute a repudiation or negation of action taken by the Central Council at its last meeting. The Executive Committee shall act by a majority of its members.

ADOPTION AND AMENDMENT

Section 1. This constitution shall be in force and effect from the time of its adoption by vote of a majority of the delegates elected to the Central Council.

Section 2. Amendments to the constitution shall be submitted to delegates thirty days prior to the convention. A majority vote will be required to amend. If there is no prior notice, a two-thirds vote of delegates will be required.

UTE INDIAN TRIBE

April 29, 1977

Senator James Abourezk
Chairman American Indian
Policy Review Commission
Congress of United States
House Office Building Annex #2
2nd D. Street South West
Washington, D.C. 20515

Dear Senator Abourezk:

We are unequivocally opposed to the recommendation made by the American Indian Policy Review Commission in regard to the terminated Ute Citizens of Utah. This opposition was strongly voiced by the Ute Tribal Business Committee by Resolution 75-223 (copy attached). Our current Business Committee holds firmly to the same opinion on this matter.

The Affiliated Ute Citizens were terminated at their own request and took with them their proportionate share of the Ute Tribal assets.

We do not accept the American Indian Policy Review Commission report that infers that the Affiliated Ute Citizens should be restored as members of the Ute Tribe. In fact, our Tribe has never been consulted with in regard to this proposed action.

May I conclude by saying that our Tribe has put forth great effort to protect and develop the Ute Reservation and we do not intend to allow the Affiliated Ute Citizens to again become members of our Tribe.

Sincerely,

Ruby Black

Ruby Black, Chairperson
Ute Tribal Business Committee

RAB/pr

Attachment

Resolution No. 75-223

Uintah and Ouray Agency
Fort Duchesne, Utah

August 22, 1975

WHEREAS, the Business Committee of the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah, is the duly authorized governing body of said tribe, and

WHEREAS, it has come to the attention of the Business Committee that there is now under active consideration by Congress a request of mixed-blood terminated Utes to be reinstated as members of the tribe, and

WHEREAS, said mixed-bloods were terminated pursuant to Public Law 83-671 upon their own initiative and request, and

WHEREAS, PL 83-671 was used by said mixed-bloods as a vehicle for partitioning the Uintah and Ouray Reservation between the mixed-bloods and full-blood members entitling said mixed-bloods to an equitable distribution of the reservation assets, and

WHEREAS, said mixed-bloods pursuant to PL 83-671 received a distribution of said assets without the restrictions of trust title for their own personal use and benefit, and

WHEREAS, the share of the Ute Indian Tribe of the Uintah and Ouray Reservation has remained in trust for the collective benefit of all remaining members, and

WHEREAS, a great number of mixed-bloods have sold their individual shares, and

WHEREAS, said mixed-bloods now desire to gain membership in the tribe to share in the assets of the reservation which were reserved for the exclusive use and benefit of the full-blood members, and

WHEREAS, the members of the tribe who remained under trust status have never sold their shares and have carefully conserved the resources of the reservation for the benefit of its remaining tribal members, and

WHEREAS, the request of the mixed-bloods to be reinstated as members of the tribe is totally repugnant to the principles of justice and equality;

NOW, THEREFORE, BE IT RESOLVED BY THE UINTAH AND OURAY TRIBAL BUSINESS COMMITTEE OF THE UTE INDIAN TRIBE that said Business Committee on behalf of all tribal members vigorously opposes any proposed request which would purport to give any mixed-bloods any interest whatsoever in the assets of the Uintah and Ouray Reservation, Utah, and will do all in its power to insure that said terminated mixed-bloods will never gain membership in the Ute Indian Tribe of the Uintah and Ouray Reservation.

BE IT FURTHER RESOLVED that the Business Committee in recognizing its duty to protect the property and interests of all its members will take whatever steps are necessary to inform members of the United States Senate and United States House of Representatives of its position in opposition to the request of the terminated mixed-bloods.

BE IT FURTHER RESOLVED that copies of this resolution be sent to all members of the United States Senate and House of Representatives.

Lester M. Chapoose, Chairman

Myron L. Accuttoroop, Vice-Chairman

Elwyn L. Du Shane, Member

(not present)
Delna F. Wopsock, Member

Charles Redfoot, Member

CERTIFICATION

I, hereby certify that the above resolution was adopted by the Uintah and Ouray Tribal Business Committee under authority of the Constitution and By-Laws or Corporate Charter of the Ute Indian Tribe and at a meeting held in Fort Duchesne, Utah, on the 22nd day of August, 1975, at which time a quorum was present and by a vote of four for and none against.

Frances M. Poowegup, Secretary
Uintah and Ouray Tribal Business Committee

Resolution No. 75-223

Resolution No. 77-57

Uintah and Ouray Agency
Fort Duchesne, Utah

April 29, 1977

WHEREAS, the Tribal Business Committee of the Ute Indian Tribe of the Uintah and Ouray Reservation has recently been re-organized, and

WHEREAS, questions have arisen regarding the status of the Terminated mix-blood former members, and

WHEREAS, the prior Business Committee has by Resolution 75-223 formally declared the tribes opposition to any attempt to allow the Terminated individuals to obtain membership in the Ute Indian Tribe.

NOW, THEREFORE, BE IT RESOLVED BY THE UINTAH AND OURAY TRIBAL BUSINESS COMMITTEE OF THE UTE INDIAN TRIBE that the present Business Committee Members does hereby formally ratify and adopt the position taken in Resolution 75-223 declaring their continued opposition to any attempt to allow mix-blood individuals to rejoin the Tribe.

Ruby A. Black, Chairperson

Charles Redfoot, Vice-Chairman

Myron L. Accuttoroop, Member

(not present)
Ouray McCook, Sr., Member

(not present)
Delna Floyd Wopsock, Member

Antone Appawoo, Member

CERTIFICATION

I, hereby certify that the above resolution was adopted by the Uintah and Ouray Tribal Business Committee under authority of the Constitution and By-Laws or Corporate Charter of the Ute Indian Tribe at a meeting held in Fort Duchesne, Utah, on the 29th day of April, 1977, at which time a quorum was present and by a vote of

Frances M. Poowegup, Secretary, Uintah and Ouray Tribal Business Committee

UTE INDIAN TRIBE

FEDERAL CHARTER, I.R. CORP.
UINTAH AND OURAY AGENCY

FORT DUCHESNE, UTAH 84026

April 29, 1977

RECD MAY 03 1977

Senator James Abourezk, Chairman
American Indian Policy Review Commission
Congress of United States
House Office Building, Annex #2
2nd D. Street South West
Washington, D. C. 20515

Dear Senator Abourezk:

I am sending you a completed copy of Resolution No. 77-57, apparently, I did not put down the number of votes for and against this r~olution at the very bottom. Please destroy the other copy, and retain this completed copy in your Office.

Thank you,

Frances M. Poowegup, Secretary
Uintah and Ouray Reservation, Utah

Attachment (1)

BUSINESS COMMITTEE

TRIBAL AND COURT TRIBAL BUSINESS COMMITTEE

LESTER B. CHAPOOSE, CHAIRMAN
BYRON ACCUTTOOOOF, VICE CHAIRMAN
ELOYD DUBRAKE, SECRETARY
ALBERT HARRISON, MEMBER
CHARLES BEAVFOOT, MEMBER
FLOYD UPDEGRAFF, MEMBER

BEA WARNER, TREASURER

JUDICIAL

HON. HERBY WYCHERLY, CHIEF JUDGE
MYRA REVERSE ABRAHAMSON, ASSOCIATE JUDGE

ADMINISTRATIVE

IRENE CUCH
ADMINISTRATIVE OFFICER

ROGER BURNS
TRIBAL ACCOUNTING COMPTROLLER

J. WESLEY JENSEN
SUPERVISOR - MAINTENANCE

MERRIE A. ARNOLD
PERSONNEL DIRECTOR

FORREST CUCH
EDUCATION DIRECTOR

JAMES BICKLEY
JUVENILE PROBATION OFFICER

BEN LAWSON
RECREATION DIRECTOR

MARINE A. HATCHESS
PUBLIC RELATIONS DIRECTOR

ALFRED PARDIETTE
FISH AND GAME DIRECTOR

LEE TAPOOF
DIRECTOR, LOGGING CAMP

RICHARD CURRY
ALCOHOLISM - DRUG ABUSE DIRECTOR

HOBBLOCK CHAPMAN
DIRECTOR, ADULT EDUCATION

LOOK PEAHOS
ACTING CHIEF OF POLICE, LAW AND ORDER

TRIBAL ENTERPRISE MANAGERS

JASPER W. CUCH, JR.
MANAGER, TRIBAL SERVICE STATION

ARTHUR C. BROOKS
MANAGER, LIVESTOCK

RICHARD B. JONES
MANAGER, STORE

J.M. FELTIER
DIRECTOR, BOTTLE HOLLOW RESORT

DALE BLADE
SITE RESEARCH LAB

HARVEY HATCHESS
MANAGER, HOUSEHOLD WATER

Resolution No. 77-57

Uintah and Ouray Agency
Fort Duchesne, Utah

April 29, 1977

WHEREAS, the Tribal Business Committee of the Ute Indian Tribe of the Uintah and Ouray Reservation has recently been re-organized, and

WHEREAS, questions have arisen regarding the status of the Terminated mix-blood former members, and

WHEREAS, the prior Business Committee has by Resolution 75-223 formally declared the tribes opposition to any attempt to allow the Terminated individuals to obtain membership in the Ute Indian Tribe.

NOW, THEREFORE, BE IT RESOLVED BY THE UINTAH AND OURAY TRIBAL BUSINESS COMMITTEE OF THE UTE INDIAN TRIBE that the present Business Committee Members does hereby formally ratify and adopt the position taken in Resolution 75-223 declaring their continued opposition to any attempt to allow mix-blood individuals to rejoin the Tribe.

Ruby A. Black, Chairperson

Charles Redfoot, Vice-Chairman

Myron L. Accuttoroop, Member

(not present)
Ouray McCook, Sr., Member

(not present)
Delna Floyd Wopsock, Member

Antone Appawoo, Member

CERTIFICATION

I, hereby certify that the above resolution was adopted by the Uintah and Ouray Tribal Business Committee under authority of the Constitution and By-Laws or Corporate Charter of the Ute Indian Tribe at a meeting held in Fort Duchesne, Utah, on the 29th day of April, 1977, at which time a quorum was present and by a vote of four for and none against.

Frances M. Poowegup, Secretary, Uintah and Ouray Tribal Business Committee

RECOMMENDATIONS TO AMERICAN INDIAN POLICY REVIEW COMMISSION
REGARDING EDUCATION TASK FORCE NUMBER V

by Washington State Native American Education Advisory Committee
to State of Washington Superintendent of Public Instruction

It is the considered opinion of this group gathered to review and appraise the education recommendations of the final draft of the AIPRC Report to Congress that two of the three major recommendations warrant a deliberate and scholarly analysis. As relative laypersons in a very esoteric area, we feel that tribes with the counsel of their legal staff are the only entities of standing to support or reject the following:

1) "Shift all Federal education programs from Office of Education and Bureau of Indian Affairs to one administrative agency."

2) "Shift control of Federal funds for Indian education from state and local governments to the tribal governments..."

Unquestionably the proposals warrant consideration because of the disjointed and uncoordinated array of programs emanating out of Washington, D. C., but the nature of the U.S.'s trust responsibility to Indians is crucial to their future and founded in a legal framework not easily coherent to any except legal scholars. Therefore, we can only comment to request that all tribes have equal opportunity to articulate their formal position whether for or against.

The third major area "establishment of training programs for Indian teachers, administrators, counselors and tribal advisors on education..." is a topic which we can support. However, it should be noted that we withhold comment on a "consolidated Indian agency" for funding and administration of these programs. Training and technical assistance programs which will enable the growth and development of Indian education programs and services which are sanctioned by tribal government and fostered by local Indian leadership are

desirable. It is conceivable that such training and technical assistance could be available through existing BIA structures. The major reorganization and realignment of the entire BIA infrastructure is not likely to be carried out in very short order; therefore, immediate capability to deliver and provide for such training and technical assistance is desirable and requested.

Several Federal and domestic programs are presently being implemented which are designed to meet such needs as curriculum development, teacher training and information clearing houses. Unfortunately, these are not designed specifically to meet the special needs of Indian education. Efforts by legitimate Indian tribes, organizations and agencies to take advantage of these programs are often stifled by unrealistic and/or irrelevant program priorities. Therefore, we support the categorical delineation of programs and services to meet Indian needs. Too often the delivery of such programs is directly proportional to the organizational ability to be knowledgeable of program rules and regulations deadline priorities. The presence of such learned persons as available resources to the less sophisticated tribes is uncommon if not expensive. The existence of national organizations has done very little to enhance the state of the art in the Northwest states, particularly in teacher training and teacher education. Regional agencies are recommended as opposed to national organizations to meet these needs. Accountability to Indian tribes in all these institutions must be incorporated as a matter of policy. "Advisory" roles by Indian persons are discouraged since this runs contrary to "self-determination".

As a corollary to these efforts toward self-determination, a "long-range effort to train and certify Indian educators..." is mandatory. Such training must be pursuant to express Indian needs articulated as priorities in regional and national forums. In the past, program priorities established on a national basis have precluded the involvement of adequate numbers of Indian participants.

WSNAEAC Subcommittee: Ron Halfmoon, Acting Subcommittee Chairman
Thelma Marchand
Elmer Schuster
Dan Iyall
Dawn Simpson

Address correspondence c/o Indian Education
Superintendent of Public Instruction
Old Capitol Building
Olympia, WA 98504

IMPORTANT

We recognize that you may not be able to thoroughly read and evaluate all parts of this Report within the time allowed for comment. However, in order to include your comments in our Final Report, this questionnaire must be completed and returned in the enclosed envelope postmarked no later than April 16, 1977. Our Final Report must be completed by May 15, 1977 for final Commission approval.

NAME Bob Cooper ADDRESS _____

GROUP/ORGANIZATION Winslow Indian Center Winslow, Az 86047

A. PLEASE CIRCLE ONE TO INDICATE YOUR IDENTITY AS:

Tribal Chairman | Tribal Governing Body | Individual Indian

Member of Congress | (Organizational Governing Board)

State Official | Private Citizen

B. PLEASE EVALUATE THE SECTIONS BY CHECKING THE BLANK WHICH MOST NEARLY REPRESENTS YOUR OPINION.

	Excellent	Good	Poor
The report as a whole is		✓	
I. History		✓	
II. Legal Concepts		✓	
III. Conditions	✓		
IV. Federal-Indian Relations		✓	
V. Tribal Government		✓	
VI. Federal Administration		✓	
VII. Economic Development		✓	
VIII. Social Services	✓		
IX. Off-Reservation		✓	
X. Terminated Indians	✓		
XI. Non-Recognized Indians		✓	
XII. Special Problem Areas		✓	
XIII. General		✓	

C. HAVING READ THE RECOMMENDATIONS AT THE END OF EACH SECTION, PLEASE ANSWER THE FOLLOWING QUESTIONS.

1) Which recommendations should be given priority status? Why? _____

1. Consolidation of Federal Service Delivery Systems
2. Recognition of "Terminated" & "Non-Recognized" Indians.
3. Federal Service Delivery in Urban areas & Non-Reservations

2) Are there recommendations with which you disagree? Why? Chapter II Page 26 par. 9 should be removed - To preclude recognition and services to "Tecumseh Confederacy" Tribes of Douglas.

3) Are there recommendations you would like to have added? Yes, additions or changes need to be made in Chapters: 2; 4; 5; 6; 9; and 11. Also the rights of Indians; members of different tribes, on a reservation should be clarified in Chapter 2's part V page 20 (case of Navajos in Joint Use Land-their status.)

4) Do you feel the content of the report provides an accurate, useful picture of the situation? For the most part, the report is quite accurate.

5) Do you have any additional comments? The report is quite comprehensive - if the language could be simplified it could then be understood by the bulk of the Native People.

F. SPACE IS PROVIDED ON THE FOLLOWING PAGES FOR YOUR SPECIFIC RECOMMENDATIONS.

9

NAME Bob Cooper ADDRESS

AFFILIATION/ORGANIZATION Winslow Indian Center Winslow, Az 86047

RECOMMENDATIONS

Chapter 2) Page ( ) Paragraph ( )

In the section beginning with the words "_____

_____," it is suggested that the following addition, deletion or change in wording be made, or the following concept expressed differently: Additions to: Chapter 2 part B page 8 list of powers of Tribe - add "The power to control the education of the tribal members."

Chapter 5 pg 25 Add "Tribal Courts/Legislatures should be given option to have jurisdiction over "18 Major Crimes". Also in place of last paragraph (2nd) "Congress should under take to remove word "Indian" from CFR 25 - where it describes jurisdiction of Tribal Court."

Chapter 6 pg 15 add: "The newly created Dept. of Indian Affairs should be operated by a Commission composed of persons elected by the tribal Councils served by that Dept."

Chapt 6 pg 42 Change #7 of Budget Recommendations to read "tribal level ..." instead of "area and agency levels..."

Chapter 9 pg 30 add to Section entitled Urban Centers - "Urban Centers should only be funded if there is evidence of local Indian Community Control."

(over)

Chapter 11 pg 13[illegible]j of Chart on Non-Recognized Rhode Island - Narragansett [redacted] Indian Tribe, under Column 5 "Mentioned in BIA Records (etc) should be added "Y", Theodore Taylor. The States and Their Indian Citizens" The tribe is listed in Appendix 3 "Indian Groups without Trust Land" pg 230

Also under Column 6 Services now receiving should be listed for receiving title IV IEA part C "Adult Education" funding.

Ernst L. Stevens, Director

April 25, 1977

American Indian Policy Review Commission
Congress of the Unted States
House Office Building, Annex No.2
Washington, D. C. 20515

Dear Sirs: Re: Indian reservation the Flathead

We would assume and certainly hope that you are getting a lot of correspondence in referrence to the apparently unequal set of standards governing the Indians and the whites. We have corresponded with other representatives before and very well may do so again, as we cannot afford to be pacified with a form letter of reassurance from you people in Washington. We white tax payers and dand owners have been reassured before--accepted the feeling of security and then have watched issue after issue be decided in favor of the Indians.

The primary issue, we feel, is that some standard should be set as to what is an Indian. Here on the Flathead Reservation there are very few people who are over half Indian blood. Literally everyone we have talked to is in favor of giving the real Indians whatever they need to live decently in this society. But we are fed up with supporting their predominently white relatives. It should not be very difficult for government people to find out the percentage of Indian blood of the people who are promoting their so called cause and testing the laws of the land and the old, old treaties.

It would appear that most of the cases taken to court are being decided in favor of the so called Indian, and each sets a precedent (which is, likewise, a questionable arrangement). Practically all of these cases are highly detrimental to the majority of the citizenry but they do set a precedent. Obviously, the tribe is supporting a number of lawyers in a manner to which they hope to grow accustomed. But who in the world is representing the people--the poor majority?!

It is being said that the so called Indians want to establish a nation within our nation--quite similar, we understand, to the basic cause of the Civil War. Now, assuming they do this--how would it work? Each of us

A good many easy going farmers and business men in the area have gone about as far as they can afford to go. Now we ask the advice of and help from our elected officials. Before making decisions that effect so many people, such as the reservation water issue, please do a little homework. Find out the actual percentage of Indian blood of the agitators who are pushing for more and more advantages; find out how the plan will effect the majority of the people; find out percentage-wise how many Indians are being supported by Welfare and such; how many are being treated for alcoholism; how many are afoul of the law; what kind of work record they maintain; how much taxes they provide for our area--and Federally.

Please, before such momentous decisions are made--learn what you are dealing with.

Respectfully,
Arlene Wolfe Arlene Wolfe
Rt. 1 Box 100
Polson, Montana 59860

Rt. 1, Box 83 W Ronan, Mont.

Cheryl Unruh
Rt. 1, Box 15-F Ronan, Mt. 59864

Rt. 1. Box W. B
Ronan, Mt. 59864

Box 15
Polson, MT 59955

P.O. Box S
Ronan, Mont.

Rt. 1 Box 166-B
Polson, Mont 59864 (over)

Box 488
Ronan Mont

Walter Stasel Rt 1 Box 10
Polson, Montana,

Rte 1 Box 218
St Ignatius Mt. 59865

St. Ignatius Mont 59865

Box 1
Ronan, Mont. 59864

Van Antwerp
Box 336
Ronan Mont 59864

Mrs Mrs Dr Ackerlund
Box 129 Mt. 59864
Ronan.

Bob + Dorothy Denlinger
Box 126 - Rt #2
Ronan, Mont. 59864

Bernard + Betty Gerrity
Rt. 1 Box 160
Polson, Mont. 59860

Arlo Bert Bower
Arcata, Mont. 59929

Alvin Arntz Rt 1 Box 100 Polson, Mont 59860
Howard & Wolfe
PO Box 449 Ronan Mont 59864

May 17, 1977

AMERICAN INDIAN POLICY REVIEW COMMISSION
Congress of the United States
House Building, Annex No. 2
Washington, D.C.

Dear Commission Members;

Re: Indian reservations--the Flathead

How far do we go, the middle and low income families on the Flathead Reservation, who have purchased land, improved on it and struggle to pay the tax load because so much of the land is not on the tax rolls? How far do we go to help the "poor" Indian who, as a general rule of thumb, is not prone to manual labor, many of whom we support on various welfare plans, all of whom us the roads and schools paid for by our taxes, a high percentage of whom are alcoholic and/or prolific (causing additional problems)? How far do we go to teach our children ho avoid alleys where Indian children may be just looking for trouble (an art they learn at home)? How far do we go in allowing tribal officers to fire guns in the air and shout "halt"--to people on private land, bordering what is called Tribal land? How far do we go to avoid the tribal land, the mountains, lakes and the very reason most of us live her in the first place; do we buy a "use permit" from the Tribe to enter this land--why not, then, a use permit on the roads that lead to the land? How far do we go in carrying extra insurance on our vehicles because the Indian does not carry any on his? How far do we go in knowing we cannot prosecute an Indian to any avail for damage or theivery he may choose to do to us or our property? How far do we go with the possibility that the Indian may be taking over the law enforcement on the reservation--when they cannot control their own people to any extent. How far do we go in letting them take over the water--the very source of life anywhere? How far do we go to help the Indian be more corrupt than he already is, by killing him with kindness?

How far do we go with the feeling of discomfort between ourselves and our good Indian neighbors--because of the greediness of a few of their people who smell government money and more easy living--the very things that have made them the dependents of society that they are today?

signing this letter owns property of values from probably $20,000 to $100,000. Is the government going to take our tax dollars, buy our land already purchased from the Indians and give it back to the Indians? Could the Indian nation be self supporting or would the U.S. government support it with the tax dollars we contribute while living elsewhere? If the so called Indians were cut off from the Welfare, Medicaid, Social Security disability and such that they rely so heavily on at this time--could he survive? They have repeatedly gone "belly up" on small business ventures in our area--usually due to poor management and corruption within their management.

Aside from the monetary values of our property here on the reservation, we all have invested many years of labor and pride in the improvements we have made, and the businesses we have established, and needless to say, if we are forced, by discrimination, to leave this area without being completely reimbursed that same pride will not let us leave the property in the condition we have built it up to. How many smoke signals will it take to attract the attention of our government?!

Do not be led to assume that we are so short sighted that we see only our immediate area and its little frictions and inequalities. We see the money talking in the lawyers and lobbyists. We realize that disruption and antagonism within our nation is to the advantage of and promoted by, forces alien to our American ideals. What we cannot visualize is precisely what to do, in a civilized and dignified manner, about the many problems. So we turn to our elected representatives to lead and to represent us.

Sincerely,

Alvin & Arlene Wolfe
Arlene Wolfe
Rt. 1 Box 100
Polson, Montana 59860

Walter & Ruth Stickel
Rt 1, Box 102 Polson

Lyle Lyttle
Box 45
Pablo, Mt 59855

J M Donald
P. O. Box 5
Ronan Mont
Mont 59865

Cheryl Vanal
Rt. 1, Box 15-F Ronan, Mt. 59864

Helen Paulleio
Rt. 1 - Box 6-B
Ronan Mt. 59864

Alicia Smyth
Rt 1 Box 8B
St Ignatius MT. 59865

Carroll & Debra McLeod
Rt. 1 Box 166-B
Ronan, Mont. 59864

Sgt. Bailey
Box 818 Ronan mont.

Kenneth - Benjamin Sudduth
Box
Ronan, Mont. 59864

Van Samuel
Box 335
Ronan mont. 59864

Bob + Dorothy Deschamps
Box 126 Rt # 2
Ronan, Mont. 59864

Bernard + Betty Kennedy
Rt. 1 Box 150
Polson, Mont 59860

Art + Bess Bowen
Ronan Mont.

Mr + Mrs Howard E Wolfe
PO Box [illegible] Ronan Mont 59864

ESTABLISHED BY THE
TREATY OF JUNE 9, 1855
CENTENNIAL JUNE 9, 1955

CONFEDERATED TRIBES AND BANDS

GENERAL COUNCIL
TRIBAL COUNCIL

April 22, 1977

AMERICAN INDIAN POLICY REVIEW COMMISSION
Congress of the United States
House Office Building Annex No. 2
2nd and D Streets S. W.
WASHINGTON D. C. 20515

Dear Sir:

These comments on the Tentative Final Draft of the American Indian Policy Review Commission are submitted by the Yakima Indian Nation.

A.I.P.R.C. TENTATIVE FINAL REPORT

The Yakima Tribe strongly supports the recommendation of the Commission regarding legislation providing for retrocession of P. L. 83-280. Chaptar 5, page 115.

There are other discussions, conclusion and recommendations in Chaptar 5 that could appear to conflict with the recommendation for retrocession as follows;.

> But it is the consensus of this commission that any attempt to impose a broad legislation solution at the time would be ill-advised and premature. page 1;
>
> That the multiplicity of circumstances and variance in resources and capabilities of the tribe makes in undesirable that Congress attempt to impose a uniform solution to the jurisdiction authority of Indian Tribes. page 28;
>
> That the administrative decisions, the judicial opinions and the authorities of tribes thus far asserted reflect a conservative approach to defining the parameters of jurisdiction and authority is preferable to attempting any legislative solution. page 28;

If these quoted statements regarding jurisdiction on Pages 1 and 28 are the same as the jurisdiction discussed under P. L. 83-280 there is a conflict in the recommendations.

These quoted statements regarding jurisdiction on pages 1 and 28 maybe different than the jurisdiction under P. L. 83-280. If this is the case, the discussion should clarify this.

THE AMERICAN INDIAN POLICY REVIEW COMMISSION

April 22, 1977

Further the cases discussing the jurisdiction of an Indian Tribe often refer to laws that prohibit certain acts by a tribe or laws that specifically authorize certain acts by a tribe. These laws should be reviewed and analyzed and if the jurisdiction of an Indian tribe is adversely affected, the laws should be amended or repealed.

In conclusion, the Yakima Tribe supports legislation allowing retrocession of P. L. 83-280.

Sincerely yours,

Watson Totus, Chairman
Yakima Tribal Council

ZIONTZ, PIRTLE, MORISSET, ERNSTOFF & CHESTNUT
ATTORNEYS AT LAW
PIONEER BUILDING, 600 FIRST AVENUE
SEATTLE, WASHINGTON 98104

AREA CODE 206
623-1255

ALVIN J. ZIONTZ
ROBERT L. PIRTLE
MASON D. MORISSET
BARRY D. ERNSTOFF
STEVEN H. CHESTNUT
STEVEN B. ANDERSON

May 17, 1977

American Indian Policy Review Commission
House Office Building Annex No. 2
2nd and D Streets, S.W.
Washington, D.C. 20515

Attention: Senator James S. Abourezk

Dear Senator Abourezk:

I was deeply disappointed by the assertions contained in Congressman Meed's dissent to the final report of the American Indian Policy Review Commission. I felt compelled to respond to some of the most obvious errors.

Unfortunately, travel and other commitments have prevented me from completing my response prior to the Commission's deadline. I am enclosing it herewith in the hope that it might not be too late to include the response.

I extend my sincere regards to you and wish to express my appreciation for your courageous action in defending the work of the Commission.

Sincerely,

ZIONTZ, PIRTLE, MORISSET,
ERNSTOFF & CHESTNUT

Alvin J. Ziontz

AJZ/mb
Encl.

cc: Congressman Lloyd Meeds

COMMENT ON DISSENTING VIEWS OF CONGRESSMAN LLOYD MEEDS TO THE DRAFT REPORT OF THE AMERICAN INDIAN POLICY REVIEW COMMISSION

TO: The American Indian Policy Review Commission

May 17, 1977

Alvin J. Ziontz
Ziontz, Pirtle, Morisset,
Ernstoff & Chestnut
208 Pioneer Building
600 First Avenue
Seattle, Washington 98104
(206) 623-1255

As Congressman Meeds is aware, I have been involved in the legal and political affairs of American Indian tribes for many years. I and my firm represent a number of tribes, both in the state of Washington and elsewhere. I have some familiarity, therefore, with the principles and concepts of law and government applicable to American Indians. I was, therefore, surprised, and I must say, disappointed when I read the dissent of Congressman Meeds to the Review Commission report.

While I respect the right of Congressman Meeds to take a position opposed to tribal governmental authority as a matter of policy, I do not believe it is helpful to misstate the nature and extent of tribal governmental authority under present law.

The dissent is based on an attack against the concept of Indian tribal sovereignty -- an attack which is misleading because of its distortion of the actual state of American law on the subject, and its fallacious reasoning about the position of American Indian tribes in our nation's political system. The legal reasoning and discussion of principle sounds very much like the polemic which Mr. Meeds consultant, Mr. Frederick J. Martone, launched in his article in the Notre Dame Lawyer in 1976, entitled "American Indian Tribal Self-Government in the Federal System: Inherent Right or Congressional License?"

Because of the importance of this report to the Congress, I feel compelled to comment on what I believe to be some of the most serious errors contained in the dissent, as it pertains to the subject of Indian Tribal Sovereignty.

This comment will enumerate some of the assertions contained in the dissent.

1. ASSERTION: An American Indian tribe is ". . . a body politic which the United States, through its sovereign power, permits to govern itself and order its internal affairs, but not the affairs of others." (Page 1)

FACT: The right of Indian tribes to govern others has been recognized by the courts and by the United States government through its Departments of Justice and Interior in the following areas:

(1) Taxation and licensing. Upheld as an inherent sovereign power of Indian tribes in Morris v. Hitchcock, 194 U.S. 384 (1903); Buster v. Wright, 135 F. 947 (1904); Barta v. Oglala Sioux Tribe, 259 F.2d 553 (C.A. 8th, 1958); Iron Crow v. Oglala Sioux Tribe, 231 F.2d 89 (C.A. 8th, 1956). See also, decisions of the Department of Interior, 55 I.D. 14 (October 25, 1934) stating:

> among the powers of sovereignty vested in an Indian tribe is the power to tax members of the tribe and non-members accepting privileges of trade or residence, to which taxes may be attached as conditions (I.D., p. 48).

93-449 O - 78 - 57

See also the numerous tribal constitutions containing express authority to tax non-members, adopted under the Indian Reorganization Act of 1934 and approved by the Secretary of Interior.

Contrast this with the assertion on Page 54 of the dissent:

> It may be seriously doubted whether Indian tribes enjoy the power to tax. A few old, lower court cases, none less than 70 years old, recognize that power.

(2) Police power. The authority of Indian tribes to subject non-Indians to law enforcement authority of the tribe has been upheld in at least two cases: Oliphant v. Schlie, 544 F.2d 1007 (1977) and Ortiz-Barraza v. United States, 512 F.2d 1176 (9th Cir. 1975).

(3) Exclusion. Exclusion of non-members has long been recognized as an inherent power of an Indian tribe. See 55 I.D. 14 at 50.

2. ASSERTION: The United States federal system precludes the idea of tribal sovereignty. (Page 1)

The assertion rests on two premises:

(a) "In our federal system", under the U. S. Constitution there are only two sovereign entities: the United States and the states. (Page 1) This is supposedly demonstrated by the Tenth Amendment:

> The powers not delegated to the United States by the Constitution nor prohibited by it to the states, are reserved to the states respectively, or to the people.

(b) Under the Fourteenth Amendment, all citizens of the United States or residents of a particular state are also citizens of that state.

FACT: (1) The United States Constitution recognizes Indian Tribes as a third entity. Article 1, §8 sets forth the Commerce Clause power as follows: "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes . . ."

The Indian Commerce Clause has long been recognized as the principle source of authority of the federal government over Indian tribes. It clearly recognizes Indian tribes as entities wholly outside the federal system, as entities with which the United States federal government must deal, and indeed specifically empowers the Congress to deal.

(2) The Fourteenth Amendment was held by the United States Supreme Court not to make Indian citizens of the states within which they reside. Elk v. Wilkins, 112 U.S. 94 (1884).

(3) Tribal governments do not have their origin in either the Constitution or Acts of Congress. Since they do not derive from the Constitution or laws of the United States and certainly not by the states, what then is their origin? Clearly, their original

sovereignty. Indian tribes always have been and remain recognized governmental entities with whom the United States has political relationships. On the most recent occasion when the United States Supreme Court examined the nature of tribal government, United States v. Mazurie, 419 U.S. 544 (1975), it rejected the argument that Indian tribes are merely associations of persons having common interests by virtue of the status of their lands, and upheld a Congressional delegation of governmental power to Indian tribes as wholly proper under the United States Constitution.

3. ASSERTION: American Indian tribal self-government is not territorial in nature, ". . . on the contrary, American Indian tribal self-government is purposive.

This argument proceeds from the premise that self-government is "permitted" to Indian tribes "for the purpose of maintaining tribal integrity and identity". (Page 2)

FACT: This assertion grandly ignores almost all of the statutory and decisional law dealing with Indian government. For example, the Indian Reorganization Act (25 U.S.C. §476, et seq.) and all of the federal regulations and actions taken thereunder are aimed at the strengthening of tribal government, and assisting tribes to conduct governmental and proprietary functions in a form recognized and chartered by the U. S. law.

Public Law 98-638, Indian Self-Determination and Education Assistance Act of 1975 made Congressional findings that "the Indian people will never surrender their desire to control their relationships both among themselves and non-Indian governments, organizations and persons" and went on to find and provide for self-determination by authorization of Indian tribes to take over governmental services previously provided by federal agencies, under contract with those same agencies. Significantly, this Act contains in two separate places authorizations for waiver by Indian tribes of their sovereign immunity, a governmental doctrine.

The Indian Civil Rights Act of 1968, (25 U.S.C. §1301, et seq.) imposed federal restraints on Indian tribes in exercising powers of self-government as to "any person" and defined powers of self-government in §1301 as including "all governmental powers possessed by an Indian tribe, executive, legislative, and judicial and all offices, bodies, and tribunals by and through which they are executed, including Courts of Indian offenses. . ."

All of the foregoing legislation has at its core, a clear understanding that Indian tribes are indeed governments which act for the broad purpose of all governments, not for the limited purpose of maintenance of tribal identity and integrity."

The assertion is incredible in the face of principles of law enunciated in decisions cited in the dissent itself. If self-government is "permitted" by Congress solely for the purpose of maintaining tribal identity and integrity, why then is state power excluded in the absence of Congressional authority? Such is the rule. See Williams v. Lee, 358 U.S. 217 (1958); Moe v. Confederated Salish and Kootenai Tribes, 48 L.Ed.2d 96 (1976); Bryan v. Itasca County, 48 L.Ed.2d 710 (1976).

If Indian self-government is permitted only for the purpose of maintaining tribal identity and integrity, there would be no intellectual or legal justification for exclusion of state jurisdiction over these people and their tribal governments.

4. ASSERTION: ". . . If Indian tribal self-government were territorial rather than purposive, the states could not have jurisdiction over non-Indians within the reservation. (Page 4)

FACT: The argument ignores the principle of dual sovereignty, a phenomenon which is common in our system of government. Clearly federal and state governmental power may be exercised within the same territorial limits and state and municipal government may also exercise concurrent authority over the same territory. The mere fact then, that state government asserts authority over non-Indians on the reservation is in no way

inconsistent with Indian tribal self-government being territorial.

5. ASSERTION: "American Indian tribes lost their sovereignty through discovery, conquest, cession, treaties, statutes and history." (Page 5)

FACT: It has long been settled that by these events tribes may have lost their external sovereignty, but retained their internal sovereignty and have become "dependent domestic nations." Worcester v. Georgia, 6 Pet. 515 (1832); Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831).

6. ASSERTION: Treaties with Indian tribes "generally permitted Indian tribes to govern their own members but not others". (Page 6)

FACT: Most Indian treaties say nothing whatever about the authority to govern, though many contain a clause which requires tribes to turn over to the United States authorities white men who commit crimes or do harm to the Indians. The fact that treaties say little about tribal authority over persons within their territory should not be surprising. The treaties were, after all, drafted by the United States and were primarily concerned with land cessions.

BASIC FALLACY OF THE ATTACK ON TRIBAL SOVEREIGNTY

The attack on tribal sovereignty contained in the dissent is fallacious because it confuses federal supremacy over

Indian tribes with tribal sovereignty. This is wholly misleading since there is no dispute about whether tribes are subject to United States federal power. They are. (Though some argue that this is so more as a matter of power than law.)

But in any event, it is wholly fallacious to argue that since the federal government has supremacy over Indian tribes, the tribes cannot be sovereign. If this were so, then the states would not be sovereign either, since the federal government clearly has supremacy over them by virtue of the United States Constitution. But we all recognize that under our system of government, unless we insist that "sovereignty" means absolute power, sovereignty is in fact divided, so that state governments are recognized as having law making and governing authority over their territory though in fact the federal government may also have law making and governing power over the same territory.

It is erroneous to claim that Indian tribes do not have governmental status -- they do, though Mr. Meeds may not like this. It is worse than mischievous to suggest, as the dissent does, that Indian tribal governments exist only at the whim or caprice of Congress. To strip away from Indian tribes the power of government that all other political entities have would be a grave step for the Congress to take. Indeed a step of questionable constitutionality. For while Congress may have plenary authority over Indians, it does not follow that such authority is wholly unlimited. The constitution of the United States itself contains limitations. The Fifth Amendment's

Due Process Clause may well protect the political liberty of Indian tribal governments. Further, the restraints in the Ninth and Tenth Amendments reserve to the "people" powers not expressly delegated nor ennumerated in the Constitution.

CONCLUSION

While it cannot be denied that there are serious questions raised by the assertion of tribal authority over non-Indians, these questions cannot be intelligently resolved by a polemic against tribal sovereignty. Tribal sovereignty exists. The real question is whether Indians and non-Indians on the reservations are better off or worse off under a system of divided authority, or no authority where local government abstains from extending services. I believe this question must be examined carefully and perhaps on a subject by subject basis.

I am attaching a copy of a recent article of mine dealing with Civil Rights implications of tribal authority over non-Indians within the reservation (published in the Indian Law Reporter, April 1977 issue.) elaborating on some of the questions involved in the conflict between tribal authority and the Constitutional rights of non-Indians subject to such authority. I hope this may prove to be of some usefulness.

Respectfully submitted,

ZIONTZ, PIRTLE, MORISSET,
ERNSTOFF & CHESTNUT

Alvin J. Ziontz

Alvin J. Ziontz
Tribal Attorneys for the
Colville, Lummi, Makah, Metlakatla,
Suquamish and Northern Cheyenne Tribes.

Indian Law Reporter

A comprehensive monthly report on developments in Indian law

PUBLISHED BY
AMERICAN INDIAN LAWYER
TRAINING PROGRAM, INC.

IN THIS ISSUE:

APRIL 1977
VOLUME 4 NUMBER 4

- U.S. SUPREME COURT CONCLUDES THAT CONGRESS INTENDED TO TERMINATE THREE-QUARTERS OF THE ROSEBUD SIOUX RESERVATION BY ENACTMENT OF EARLY CESSION ACTS. PAGE A-26
- NATIVE AMERICAN RIGHTS FUND REPORTS ON HOUSE BILL EXTENDING FOR TEN YEARS THE STATUTE OF LIMITATIONS ON INDIAN CLAIMS. PAGE O-34
- MASPEE TRIBE IN MASSACHUSETTS SEEK TO REGAIN LANDS HELD IN VIOLATION OF THE INDIAN NONINTERCOURSE ACT. PAGE F-44
- U.S. COURT OF CUSTOMS AND PATENT APPEALS HOLDS THAT PROVISION OF JAY TREATY EXEMPTING INDIANS FROM PAYMENT OF PERSONAL CUSTOMS DUTY WAS ABROGATED BY WAR OF 1812. PAGE M-12
- ATTORNEY IN WASHINGTON SHARES INSIGHT INTO IMPLICATIONS OF TRIBAL AUTHORITY OVER NONTRIBAL MEMBERS WITHIN THE RESERVATION. PAGE M-6
- FEDERAL COURT IN SOUTH DAKOTA UPHOLDS POWER OF TRIBAL COURT TO ORDER CONVEYANCE OF TRUST LANDS WITHIN RESERVATION. PAGE F-64

1000 WISCONSIN AVENUE N.W., WASHINGTON, D.C. 20007 TELEPHONE 202/337-5210
COPYRIGHT 1977 IN U.S.A. BY AMERICAN INDIAN LAWYER TRAINING PROGRAM, INC.

4/20/77 INDIAN LAW REPORTER 4 ILR M-6

SURVEY AND ANALYSIS OF INDIAN LEGAL DEVELOPMENTS

CIVIL RIGHTS IMPLICATIONS OF TRIBAL AUTHORITY OVER NON-INDIANS WITHIN THE RESERVATION

By Alvin J. Ziontz*

Thousands of non-Indians in the western states live on or near Indian reservations. Many drive through Indian reservations almost daily. There are numerous farms and ranches owned by non-Indians on reservations and many towns and cities are located within the boundaries of reservations. Such incursions by non-Indian populations have resulted from the opening of Indian lands by the Indian Allotment Acts which declared many lands within the Indian reservations to be surplus to the Indians' needs and allowed them to be sold to non-Indians; by homestead acts which opened Indian lands for settlement by non-Indians, and by Indian lands going out of trust by Indian action and being sold to non-Indians.

Many non-Indians are now deeply disturbed by the prospect of Indian tribal government imposing tribal authority over them in many areas of conduct. Such tribal regulation includes law and order codes, building and zoning codes, water codes and taxing and licensing ordinances.

Generally, these codes occupy no different position than the codes and ordinances promulgated by the local states, cities and counties.

The attack on such tribal authority is made on a number of grounds. The principal ground, however, is that non-Indians should not be subjected to tribal government because they are barred from membership in the tribe and, therefore, from participation in voting and holding office. They are in effect "non-citizens" insofar as tribal government is concerned.

This claim deserves serious analysis. It is certainly true that a non-Indian may not participate as a matter of right in the affairs of tribal government merely because of his residence within the boundaries of a reservation. He has no voice in the selection of tribal officials or in the establishment of tribal policies. Non-Indians who reside outside the reservation but who may frequently pass through the reservation cannot rest their protest on such grounds since they have the same relationship to tribal government as any transient has with respect to the government of the community through which he is passing. However, with respect to residents and land owners on the reservation, a careful examination of their claim is merited. Such an examination must begin with a review of the law as it has heretofore been enunciated by the courts.

The first major decision to deal with the challenge of tribal authority over non-Indians on the reservation was Morris v. Hitchcock, 194 U.S. 384 (1903). This was a suit brought by the non-Indians to enjoin federal officials from interfering with their cattle grazing on lands of the Chickasaw Nation in Indian territory. Such action was threatened by virtue of the plaintiff's refusal to comply with an ordinance of the Chickasaw Nation which assessed a permit tax on livestock owned by non-citizens within the limits of the Chickasaw Nation. The plaintiffs challenged the tribal ordinance as being repugnant to the Fourth and Fifth Amendments to the United States Constitution.

---

* Mr. Ziontz is a partner in the law firm of Ziontz, Pirtle, Morrisset, Ernstoff & Chestnut, Seattle, Washington. The firm acts as counsel for the Colville, Lummi, Makah, Metlakatla, Suquamish and Northern Cheyenne Indian Tribes.

The Supreme Court looked first to the treaties made with the Tribe which gave the Tribe the right to control the presence of non-members in its territory, and concluded that under these treaties, the Chickasaw Nation had the power to attach conditions to the presence of non-citizens within its borders. While Congress had expressly provided in a subsequent Act that owners of town lots within Indian country could not be removed or deported, the Act contained no prohibition against enforcement of tribal taxation legislation, which was operative at the time of this enactment.

The Court therefore concluded that the act of the legislature of the Chickasaw Nation was valid, and that the regulations of the Secretary of the Interior carrying into effect this enactment was not violative of the plaintiff's rights under the Fourth and Fifth Amendments.

Perhaps the most frequently cited decision in this area is Buster v. Wright decided by the United States Court of Appeals for the Eighth Circuit in 1905 (135 Fed. 947). This case held that Indian tribes had the power to impose a tax on those white persons who conducted businesses within the reservation even though they were conducting such businesses on lands owned by them in fee simple. The court there held that the Creek Nation had the inherent sovereign power of taxation and this was not affected by the taxpayer's ownership or nonownership of his land, nor by the existence of cities or towns within the reservation. The court found that such persons were "noncitizens" of the Creek Nation and that the Nation had the power to fix the terms on which "noncitizens" may conduct business within the reservation. Such power of the tribe to tax all persons within its boundaries has been repeatedly upheld in subsequent court decisions. Barta v. Oglala Sioux Tribe, 259 F.2d 553 (C.A. 8th, 1958); Iron Crow v. Oglala Sioux Tribe, 231 F.2d 89 (C.A. 8th 1956).

In Barta v. Oglala Sioux, the non-Indians urged that the tribal tax violated their rights in that it constituted "taxation without representation". The court rejected this contention, pointing out that taxability of property is not dependent upon the residence of the owner and that property rights of an alien or non-resident are taxable the same as property of residents who may be said to have representation.

THE INDIAN CIVIL RIGHTS ACT

Indian tribes are not subject to restraints on governmental action contained in the United States Constitution. Court decisions dealing with the issue have pointed out that tribes are not to be considered as states, nor are they arms of the United States, and therefore not within the coverage of the language of the Bill of Rights. Talton v. Mayes, 163 U.S. 376 (1896). In 1968, however, Congress passed the Indian Civil Rights Act (25 U.S.C. §§1301-41) which imposed upon Indian tribes the duty to accord all persons the same basic constitutional rights which are guaranteed by the Bill of Rights, with certain specific exceptions and changes due to the unique character of Indian tribes. That Act has been held to provide federal courts with jurisdiction to grant relief to any person claiming denial of such rights as due process, equal protection and taking of property without compensation. Dodge v. Nakai, 298 F.Supp. 17 (D. Arizona, 1968).

It is significant, however, that Congress explicitly omitted from the Act the language of the Fifteenth Amendment which prohibited abridgment of the right to vote on account of race. The exclusion of the Fifteenth Amendment guarantees was obviously designed to protect the integrity of the tribe as a group which restricts its membership to Indian ancestry. Such action by the Congress represents a determination that opening participation in tribal government to all persons would destroy the identity of an Indian tribe as Indian in character and would affect the basis upon which the treaty and other political relationships between Indian tribes and the United States rests.

While the Indian Civil Rights Act is highly controversial and is objected to by many Indian groups, nevertheless, it does function as the guarantor of the civil rights of non-Indians who are subject to tribal action. In fact the decision of Congress to make the Act applicable to all persons, represents the Congressional understanding that non-Indians, as well as Indians, may be the subject of governmental authority of Indian tribes.

INDIAN PREFERENCE
NOT UNCONSTITUTIONAL

The character of legislation which singles out the Indian for special and beneficial treatment was challenged in Morton v. Mancari, 417 U.S. 535 (1974). This was an action brought by non-Indian employees of the Bureau of Indian Affairs claiming that the preference given Indians in employment by the Bureau of Indian Affairs pursuant to the 1934 Indian Reorganization Act denied them valuable property rights and was an infringement of their Fifth Amendment right to due process.

The court upheld the Indian preference provision of the 1934 Act. The court first found that the unique legal status of Indian tribes is well-established in American law and is based upon the relationship between the federal government and Indian tribes and involves treaties, guardianship, and unique plenary authority of Congress provided for in the United States Constitution. The Constitution singles out Indians as a proper subject for separate legislation.

The "solemn commitment of the government towards the Indians" mandated special concern and special legislative treatment and it was well within the powers of Congress to afford Indians greater representation in employment with the Bureau of Indian Affairs, an agency which had great power over Indian reservations. The court viewed Indians in this context "not as a discrete racial group, but, rather, as members of quasi-sovereign tribal entities whose lives and activities are governed by the BIA in a unique fashion." In this respect, the court found this statute similar in principle to statutes requiring that office holders reside within their districts for specified periods of time. It was, in other words, a matter of the tribe as a political entity being entitled to representation in this special branch of the government. The non-Indian employee of the Bureau of Indian Affairs, was held not to have been deprived of any constitutional right by this Act of Congress which was rationally directed at fulfillment of Congress' unique obligation toward the Indians.

It was upheld as a measure which was reasonably and rationally designed to "further Indian self-government".

In U.S. v. Mazurie in 1975, the Supreme Court was presented with a claim by non-Indians residing on the Wind River Indian Reservation, Wyoming, that the tribe could not constitutionally bar them from conducting a liquor business on the reservation. The non-Indians had been convicted of sale of liquor in violation of a federal law which gave Indian tribes the right to regulate the sale and use of liquor on the reservation. The Shoshone-Arapaho government had established by ordinance the requirement of a tribal liquor license and the defendants had applied for such license but were denied on the ground that the evidence adduced at a hearing established that the defendants' tavern was a source of a great deal of disorderly conduct. When the defendants proceeded with their liquor business in defiance of the tribal ordinance, they were arrested and prosecuted by federal authorities.

The defendants first challenged the status of the tribe as a governmental body which could exercise powers delegated by Congress. The court held that the tribe possessed sovereignty over both its members and its territory and that Congress could therefore properly delegate to the tribe the power to regulate the

use and sale of liquor on the reservation.

The defendants, who owned the land on which their tavern was located claimed the imposition of this tribal authority was a denial of their right to equal protection and due process. The court rejected this claim on the ground that Indian tribes have full governmental authority over their reservations and this authority extends to non-Indians. The defendants did not claim that the tribe's denial of their license in itself constituted a denial of equal protection or that they were denied due process in the hearing. The court pointed out that a remedy was afforded to them under the Indian Civil Rights Act in the event the tribe did act in a manner which deprived them of such rights. But the mere imposition of tribal authority did not constitute such denial. The court seemed to take it as self-evident and requiring no analysis that these defendants could not participate in tribal government, but that such fact could not operate to deprive tribes of authority over their reservations.

Perhaps the most far reaching decision affirming the power of Indian tribes over non-Indians was the decision of the Ninth Circuit Court of Appeals in 1976 in the case of Oliphant v. Schlie, 544 F.2d 1007 (1977). There the Court of Appeals upheld the jurisdiction of an Indian tribal court to try a non-Indian for a violation of a tribal ordinance and impose criminal sanctions for an act which occurred on the reservation. The act in question was a misdemeanor, namely, resisting arrest and assaulting an officer. This decision was grounded on the same principle as Mazurie: the power to preserve order is basic to the sovereignty of an Indian tribe and such authority resides in the tribe.

Many tribal governments throughout the West have enacted tribal codes establishing authority over all persons on the reservation. In this respect the tribes perform the same function as all local governments do. Police protection is basic to the security of every community regardless of its composition. The defendant in Oliphant raised a challenge to trial by tribal court since non-Indians would be excluded from participating on the jury. However the court said this did not invalidate the jurisdiction of the tribal court since defendant's rights to a fair trial were protected by the Indian Civil Rights Act and a remedy was available to him if he were in any way denied a fair trial.

Apart then, from the question of participation in tribal government, non-Indians who complain of Indian police carrying out law enforcement functions over all persons on the reservation do not raise questions of constitutional right deprivation. If the officers act in an improper of unlawful manner, remedies are available under the Indian Civil Rights Act. No doubt cases of abusive conduct will occur. However, we are all familiar with abusive conduct by law enforcement officers throughout America, including some of our most sophisticated law enforcement groups. The remedy obviously lies in better control of police conduct. If Indian police conduct proves to be racially discriminatory against non-Indians, the federal courts are available to give relief.

THE DILEMMA OF A NON-INDIAN RESIDENT OF AN INDIAN RESERVATION

It is clear that under present law non-Indians residing on Indian reservations are noncitizens with respect to the tribe which governs the reservation. This does not affect their status as citizens of the states and counties within which they reside nor as citizens of the United States. They are full citizens of those governments and have full rights of participation. But as to the local tribal government, their position is comparable to the position of nonresidents or aliens. Such persons are generally unable to vote, hold office, serve on juries or qualify for a variety of activities reserved for residents by state and local laws. In addition, numerous benefits are available to residents which are denied non-residents, such as differentials in fees for tuition in state institutions of higher learning. That the nonresident is denied the right to participate

in the decisions of the local government, or is subjected to differential treatment is not in itself a denial of civil rights.

However, his subjection to taxation and other powers of government without any right to participate in that government appears to collide with fundamental notions of democracy and due process of law. The Supreme Court has resolved the problem by applying two basic principles: Indian tribes have authority over their reservations and non-Indians have no right to membership in Indian tribes.

Any attempt to give non-Indian reservation residents the same standing as they would have if they resided off the reservation presents a basic dilemma: either tribal government must be open to non-Indian participation or tribal government must be stripped of governmental authority over the reservation. Either solution would be destructive.

If tribal government is opened to non-Indian participation, if will mean the end of Indian tribes as tribes. Their identity will be lost and the political relationship between the United States and the political entities which have made treaties and agreements with it will be destroyed. Such a proposal is actually one to end Indian tribes and their existence.

Alternatively, destruction of tribal authority by legislative fiat would mean turning the clock backward. It would prevent tribes from controlling lawlessness on reservations resulting from the unwillingness or inability of local governments to extend adequate law enforcement to the reservations. In some cases, governmental authority of non-tribal governments has been chaotic and confusing as a result of the differing status of land parcels within the reservations. As the United States Supreme Court recently said in Moe v. Confederated Salish and Kootenai Tribes, 425 U.S. 463, (1976):

> Congress by its more modern legislation has evinced a clear intent to eschew any such 'checkerboard' approach within an existing Indian reservation. . .

The Court also cites Seymour v. Superintendent, 368 U.S. 351 (1962) and United States v. Mazurie, 419 U.S. 544 (1975).

Impairment of tribal authority would, in the long run, benefit no one. It would, on the other hand, strip away those aspects of tribal government which the courts have found to be an inherent aspect of sovereignty which all governments must have to carry out the basic function of maintaining an orderly and peaceful community.

CONCLUSION

The efforts of groups opposing Indian rights and seeking legislation to assist them is based on a fundamental misunderstanding of the nature of those Indian rights. There is no constitutional right for a non-Indian to be a member of an Indian tribe. That Indian tribes have authority over their reservations and are entitled to rights, privileges and immunities not granted to non-Indians is a product of their original occupancy of this continent and the commitments made by the United States of America to them on that account. While specific adjustments may have to be made legislatively, basic principles must remain inviolate. We cannot agree that Indian rights are inconsistent with our system of constitutional law. Indian tribes appear to be in a state of transition at the present time and undoubtedly many problems will be encountered as they exercise their authority. Tolerance, cooperation and good will are required of Indians and non-Indians alike. But in the long run, we all must recognize that the principle of self-government is as dear to the Indian tribes as it was to our colonial forefathers. In the long run, it is in the best interests of our political and social system for Indian tribes to exercise that self-government responsibly and effectively. It is difficult for Indians to escape the feeling that the opposition to such efforts by non-Indians, not matter how phrased, is ultimately racist. Perhaps it is even now too late for words of moderation. But lawyers have a special responsibility to avoid worsening the already serious conflicts between tribal governments and their non-Indian residents and neighbors.

INDEX

	Page
Aboriginal claims	545
Aboriginal ownership	542
Aboriginal rights	44
Abourezk, Senator James, Chairman of the Indian Affairs Committee of the Senate	274, 615–617
Absentee-Shawnee Tribes	508, 522–523, 525
Accounting system	220
Affiliated Tribes of Northwest Indians	312
Agreements	109, 506
Agriculture	253, 305, 314–317, 321–324
Conservation	317
Lands	321
Loans	324
Extension service	322–323
Overgrazing	317
Agua Caliente Band	200, 205, 207
Ak Chin Tribe	336
Akin decision	333
Alaska	489–503
Aboriginal title	492
Alaska Native Ass'n of Oregon v. *Morton*	498
Alaska Native Claims Settlement Act	489, 491–493, 495–503
Alaska Natives	41–42, 489–503
Calista et al. v. *Kleppe*	498
Central Council of Tlingit & Chugach Native Ass'n	498
Funds	503
Indian Reorganization Act	490
Indian Self-Determination and Education Assistance Act	494–495
Koniag, Inc. v. *Kleppe*	498
Lands	492, 499, 501–503
Legal relationship	500
Native corporations	499–503
Pence v. *Kleppe*	498
Royalties	501
Sand and gravel	500
Sealaska Corp. v. *Secretary*	498
Taxation	499, 502–503
Timber	500
Tlingit and Haida Tribes	490, 491–496, 502
Trans-Alaska pipeline	501, 503
Alaska Natives	41–42, 489–503
Corporations	41–42
Fund	42
Lands	41–42
Organizations	41
Taxation	42
Trans-Alaska pipeline	42
Alaska Native Ass'n of Oregon v. *Morton*	498
Alaska Native Claims Settlement Act	489, 491–498, 495, 497–503
Alcoholism and drug abuse	9, 31, 373–374, 401
National Institute on Alcoholism and Alcohol Abuse	374
Allen, Henry L	379

p. 894 - blank

93-440 O - 78 - 58

Page

Allotment ---- 240, 308–309, 311, 313–315, 318, 320–321, 323, 328–329, 403, 466, 520–521, 524–525
Fractionated ownership ---- 310, 311, 313, 315, 318, 321, 328
Involuntary ---- 308
Trust ---- 524
Allotment Act, Public Law 83–280 ---- 119
Allotment and similation period ---- 148
Allotment policy ---- 66, 68, 72, 148–149
Era ---- 149
Allotment treaties ---- 57–58
Alternate elective bodies ---- 557–559
Indian Board of Representatives or Commissioners ---- 557
Indian congressional delegation ---- 557
Recognition of tribal governments ---- 557
Union of Indian Nations ---- 557, 558
American Indian law:
Basic doctrines ---- 99
American Indian movement ---- 518
American Indian Policy Review Commission final report:
Abourezk, Senator James, chairman, separate views ---- 615–617
Indian Commissioners, separate views ---- 621–624
Meeds, Congressman Lloyd, vice chairman, dissenting views ---- 571–612
America's legal and political system ---- 119
Indian tribes ---- 119
Annual report of the Commissioner on Indian Affairs ---- 88
Annual report on Indian matters ---- 11, 94
Annuities:
Influence ---- 58
Withhold ---- 58
Apache Tribe ---- 509–510
Appointed advisory boards ---- 233
Appropriations ---- 7, 14, 24, 29–30, 33, 35, 42, 132, 232, 309, 399, 415, 421, 423, 431, 435
Land acquisition ---- 309
Arapahoe Tribe ---- 58, 507, 509–510, 525, 527
Arizona v. *California* ---- 331
Assimilation ---- 8, 36, 52–53, 61, 64, 67–68, 75, 78, 174, 199, 205, 207, 231, 402, 415, 415, 430, 432, 448–450, 452–453, 528
By coercion ---- 64
Policies ---- 67–68
Assimilative Crime Act ---- 18, 115, 195, 197–199
Attorneys ---- 138
Fees ---- 138, 209–210
Representation ---- 210
Basic doctrines: Law and policy ---- 99
Bel Bay case ---- 28, 338
Bibliography relating to Indian affairs ---- 562
Big Horn case ---- 28, 338
Black, Justice Hugo ---- 112
Blackfeet Tribe ---- 330, 345–346
Board of Indian Commissioners ---- 56, 404
Board of Regents ---- 299
Boarding schools ---- 33–34, 64, 402–404
Booz, Allen, and Hamilton report ---- 77
Bribery ---- 54
Bruce, Commissioner Louis R. ---- 437
Bryan v. *Itasca County* ---- 116, 119, 177–178
Budget ---- 7, 32, 232, 234–235, 255, 279–281, 290, 305
Federal Indian ---- 305
Requests ---- 7
System ---- 290
Zero based ---- 234–235, 281

Page

Bureau of Indian Affairs 21–27, 43, 88, 150, 187, 189–191, 200, 220, 225, 232, 234, 237–245, 254–255, 261–262, 265–281, 284, 288–290, 297, 299, 309, 322, 347–350, 401, 404–406, 415, 418, 421–423, 436, 448, 462, 476, 521–525, 530, 534, 537–538, 541, 560
- Agents 239–240
- Allegations 189
- Annual report 289
- Band programs 270
- Budgets 43, 88, 232, 234, 255, 269–270, 279–280, 322, 539
- Creation 238
- Criticism 266
- Directors 241
- Dissatisfaction with 200
- Employment classification 271
- Expenditure data 267
- Indian preference 271, 276
- Internal management problems 267
- Labor relations 271
- Management information 271
- Management study 266, 273, 279
- Manual 278–279, 560
- Organization 268
- Outlays 539
- Personnel 270
- Police 530
- Reorganization 241–245
- Service areas 43
- Statistics 348
- Superintendents 239
- Tables 539–541
- Technical assistance 261
- Timber 325–326
- Transition 288–290
- Unsolved problems 276

Bureau of Reclamation 310, 336, 338

Burke Act of 1906 66

Burke, Indian Commissioner Charles 74

Business development 31

Buster v. *Wright* 157

Caddo Tribe 505, 507

Calhoun, Secretary of War John C 238

California 534–542
- BIA 534, 537–538, 541
- Census Bureau 536
- Demography 536
- Federally recognized Indians 537
- Funds allocated to San Francisco area 541
- Health 542
- History 534–536
- Indian Claims Commission 536
- Indian Health Service 534, 541–542
- Land 536
- Land Registration Act 536
- Landless rural Indians 537, 541
- Mission Relief Act 536
- Nonrecognized 534
- Population 536–537
- Public Law 83–280 ..... 534, 538, 541
- Recognition 541
- Relocation 534
- Restoration 541
- Termination 534, 538
- Treaties 535–536
- Unrecognized tribes 537, 541
- Urban Indians 534, 537, 541

Page

Calista, et al. v. *Kleppe* ---- 498
Career system for Indians ---- 277
Carlisle Indians Training School ---- 63–64, 403
Catawba Tribe ---- 295, 544
Cayuga Tribe ---- 544
Census Bureau ---- 41, 90, 348–349, 484, 522, 536
  Census ---- 522
  Records ---- 90
Central Coun. of Tlingit H. Ind. v. *Chugach Native Ass'n* ---- 498
Cession ---- 309
Charts ---- 200, 291–292
  Current state of jurisdictional transfers ---- 200
  Organizational ---- 291–292
Checkerboarding ---- 524
Chemehuevi Tribe ---- 334
Cherokee Nation v. *Georgia* ---- 54, 77, 103–104
Cherokee Tribe ---- 53–54, 61, 63–64, 68, 100, 103–104, 111, 120, 127, 157, 213, 465–466, 507, 513, 526
Cheyenne Tribe ---- 317, 507, 509–510, 525, 527
Chickasaw Tribe ---- 53, 57, 466, 506, 526
Child custody ---- 35
Child placement ---- 35
Chippewa Tribe ---- 58, 415
Choctaw Nation v. *Oklahoma* ---- 505
Choctaw Treaty of Dancing Rabbit Creek ---- 57
Choctaw Tribe ---- 53, 55, 57, 157, 465–466, 506, 526
Citizenship ---- 126
Civil Rights Act of 1964 ---- 22
Civil Rights Act of 1968 ---- 560
Civil service ---- 277
Civilization ---- 402–403
  Civilization fund ---- 402
Civilizing effect ---- 65, 162
Claim abolishment ---- 545
Claims of tribes ---- 44
Clay ---- 347
Coal ---- 7, 339–341, 347
Coeur d'Alene Tribe ---- 188
Cohen, Assistant Solicitor Felix, Department of the Interior ---- 100, 200, 477, 525
Collier, Commissioner John ---- 245
Colliflower v. *Garland* ---- 159–160
Colville Tribe ---- 167, 188, 205, 331
Colville v. *Walton, et al* ---- 28, 331, 338
Comanche Tribe ---- 56, 509–510, 525
Commissioner of Indian Affairs ---- 16, 23, 237–238, 240, 244, 288, 299, 343, 403, 406, 431, 450, 466, 505
Commission on Organization of the Executive Branch of the Government ---- 76
Committee on Indian Affairs ---- 293, 295, 299
  Select ---- 293
Communications systems ---- 355, 357
Community colleges ---- 415
Community services ---- 31, 371–373
Comprehensive Employment and Training Act ---- 219, 256–257, 352
  On-the-job training ---- 256
  Unemployed ---- 256
  Vocational training ---- 256
Comprehensive Training and Employment Assistance Act ---- 348
Conflict of interest ---- 129, 138, 224, 249, 280, 294, 337–338, 527
Congress ---- 106–107, 114–115, 119, 128, 174, 237, 293–295, 307, 346–347, 484, 528–530, 545
  Plenary power ---- 114–115, 128, 174
  Power over Indian affairs ---- 106–107
  Trustee ---- 119
Congressional acknowledgment ---- 81

Page

Congressional enactment 14–15 17–18, 20–21, 24, 26, 30, 41, 329, 338, 503
Appropriation 15
Cattle 26
Farm 26
Leasing 26
Timber 329
Conquest doctrine 52
Conrad Investment Co. v. *U.S.* 330, 332
Constitution 106–107, 237, 293–294
Constitutional rights 210–213
Consumer education 36
Contemporary conditions 87
Continental Congress 237, 294
Court of Indian Offenses 161–163
Courts 197, 513–516
U.S. Court of Appeals 197
Courts of Federal Offenses 149
Courts, Federal 13, 17, 19–20, 54, 211–215, 294
Courts, State 54, 118, 212–215, 217, 526
Georgia 54, 118
Covington, Lucy 205
Cowlitz Tribe 476
Crime 54, 115, 118, 164, 194–198
Indian country 54, 118
Rates 164
Victimless 198
Violent 198
Crow Tribe 295, 311, 316, 319, 321, 330, 332, 344
Creek Tribe 53, 57, 63, 286, 465–466, 506–507, 511–512, 528
Culture 13, 31, 44–45, 52, 67, 72, 81, 403, 416, 551–557, 562–563
Alternative elective bodies 557–559
Centers 81
Ethnic Heritage Act 551
Indian rights 556
Public Law 93–580 557
Remake 52
Tribal 60
Curtis Act 68, 101, 148
Cushing, Attorney General, opinion 157
Dakota Tribe 56
Davis, Senator Jefferson 56
Dawes Act 65–67, 148, 308
Commission 523
Dawes, Senator Henry, of Massachusetts 65
Declaration of Indian purposes 285
DeCoteau v. *District County Court* 178
Definition of an Indian 87, 89, 107–108
Tribal membership 107
Definition of an Indian Tribe 494–495
Delaware Tribe 505, 507
Demography 87, 536
Demonstrations 78
Department of Agriculture 32, 253, 361–362
Department of Health, Education, and Welfare 251–252, 281, 284, 378
Department of Housing and Urban Development 251, 518
Department of Indian Affairs 12–13, 22, 135, 138, 284–288, 290, 297
Office of Trust Rights Protection 12–13, 135, 138
Department of Justice 13, 17, 135, 543
Assistance 135
Criminal referrals 17
Duty 135
Indian Trust Counsel Authority 135
Department of Labor 255, 256, 332

Page

Department of the Interior 13–15, 17–18, 187, 254, 286, 290, 462, 476–478, 523, 525, 542–543
Transition 290
Directors 241
Discrimination 528
Disease 371–378
Domestic assistance 7, 21, 151, 216–221, 224, 235, 247–259, 296
Formula grants 218
Domestic dependent nations 104
Double jeopardy 159–160
Early history 145
Early reform efforts 62
Eastman, Charles Alexander 68
Economies 7–8, 14, 24–26, 305–365
Conditions 306
Credit system 8
Dependency 305–307
Development 7–8, 14, 24–26, 307–308, 349
Federal role 307
Indian Country 305–365
Land 8
Leases of 305–365
Self-sufficiency 307, 310
Technical assistance 8
Economic Development Administration 361, 365
Economic Opportunity Act 415
Education 7, 9, 24, 30, 32–34, 45, 63–64, 70, 79–81, 91–92, 241, 252, 299, 323, 349–350, 354, 371, 401–419, 437, 442
Accreditation 417, 419
Appropriations 415
Assimilation 402, 413
Background 401
BIA 401, 404–408, 415, 418
Boarding schools 402, 404–405, 407–409, 418
Carlisle Indian School 403
Civilization fund 402
Clearinghouse 417
Commissioner of Indian Affairs 403, 406
Coalition of Indian-controlled school boards 413
Colleges 416
Contracting powers 404
Economic Opportunity Act 415
Elementary and Secondary Education Act 401, 408–409, 412
Elementary and secondary schools 24, 405, 408, 417
Federal impact laws 401, 409
Federal policy 401
Federal schools 402
Finance 408
Five Civilized Tribes 402
Funding 410, 418
Funds 409, 411–414, 419
Government schools 404
Higher 349, 415
Higher Education Act of 1968 415
Historical 402
Impact aid 409
Independent Indian agency 416
Indian-controlled schools 418
Indian Education Act 405, 409, 412
Indian Education Resources Center 405
Indian Reorganization Act 415, 418
Indian Self-Determination Assistance Act 405
Johnson-O'Malley 401, 404–407, 409, 411, 412, 414–417
Junior colleges 416
Kennedy Report 407, 408

Page

Lawsuits ---- 413, 417
Levels ---- 81
Loans ---- 404, 415
Manual labor schools ---- 402
Men ---- 92
Meriam report ---- 415
Nonreservation students ---- 408
Office of Indian Education ---- 401, 405–406, 408–411
Personnel ---- 408
Policy ---- 408
Postsecondary schools ---- 24, 405, 408, 417–418
Public Laws:
81–851 ---- 402, 409, 417
81–874 ---- 401, 405, 409, 412–413, 417
92–318 ---- 415
93–218 ---- 405
93–280 ---- 409
93–638 ---- 405, 417
Public schools ---- 404–406, 412–413
Responsibility ---- 405
Rough Rock community ---- 79
Scholarships ---- 415, 418
School boards ---- 401
Secondary ---- 349
Special Subcommittee on Indian Education ---- 405, 407
State departments of education ---- 401
State role ---- 411–412
Student services ---- 408
Student unrest ---- 408
Tool of policy ---- 63
Trade and Intercourse Act of 1802 ---- 402
Training of teachers ---- 411, 417
Treaties ---- 402
Treaty right ---- 401
Tribal community ---- 401
Tribal control ---- 414–417
Trust relationship ---- 401
Vocational ---- 323, 349
Women ---- 92
Elementary and Secondary Education Act ---- 401, 408–409, 412
Elementary and secondary schools ---- 32, 299
Ellis v. *Page* ---- 517
Emigration ---- 55
Employment ---- 74, 92, 93, 149, 276–278, 351–352, 364
Assistance ---- 351
Men ---- 92
Preference policy ---- 149, 277, 278
Women ---- 98
Employment assistance ---- 85
Ethnic Heritage Act ---- 551
Executive action ---- 23
Executive agreements ---- 60
Executive branch ---- 14
Executive orders ---- 509
Ex Parte Crow Dog decision ---- 64, 114, 154, 196
Expenditure for Indian programs ---- 94
Extension service ---- 322
Farmers Home Administration ---- 311, 319
Loan program ---- 319
Farming subsistence ---- 65
Federal administration ---- 3, 6, 21, 233, 236
Negative factors ---- 233
History ---- 236
Federal administration of Indian policy ---- 231–299
Federal assistance ---- 307

Page

Federal domestic assistance 20
Federal duty 127–128, 131
Federal funding 355
Federal grants 246
Federal impact laws 401, 409
Federal-Indian laws 4–5, 9, 45, 120, 215, 559
  Consolidation, revision, and codification 559–560
  Foundations of 4
Federal-Indian policy 13–14,
  36, 60, 144, 154, 172, 181–182, 198, 216, 236, 453, 464–465, 530
Federal-Indian programs 9, 247–259
  Agriculture 253
  BIA 254–255
  Budget 255
  Commerce Department 249
  Comprehensive Employment and Training Act of 1973 256
  Department of Agriculture 253
  Department of Health, Education, and Welfare 251–252
  Department of Interior 254
  Department of Labor 255
  Division of Indian and Native American Programs 256
  Education 252
  Housing 251
  Housing and Urban Development 251
  Indian Health Service 252
  Land 253
  Nutrition 253
  Office of Education 252
  Office of Minority Business Enterprise 250
  Office of Native American Programs 253
  Timber 253
  Welfare 248
Federal-Indian relationship 3–4,
  9, 125, 130, 182, 237, 257, 294, 436, 447, 452, 461–462, 480–484
  Special office 480–484
Federal-Indian trust law 106
Federal instrumentality concept 158–159
Federal policies 3,
  8, 20, 120, 143–144, 150–151, 189, 198–199, 218, 221, 278, 307–308,
  401, 423, 432, 448–449
Federal preemption 118
Federal procurement regulations 22
Federal Program Information Act 21
Federal programs 107, 296
  Eligibility 296
Federal Property and Administrative Services Act 25, 313
Federal protection 130
Federal recognition 37, 106
Federal relationship 151, 200, 463
  Termination 151
Federal responsibility 78, 200, 216, 432, 448, 551
  Termination 78
Federal service eligibility 108
Federal taxation 14
Federal-tribal relationship 99, 119
Federally recognized Indian tribes 108, 120, 537
Final Indian Trade and Intercourse Act 146–147
Fish 7, 14–15, 335
Fisher v. *District Court* 118
Fisheries 307
Fishing 182–187, 199, 203
Five Civilized Tribes 26,
  68, 148–150, 157, 242, 314, 402, 505–507, 514–516, 519–520, 522–523,
  528–529

	Page
Food	32
Forced acculturation	63
Forest	28
Fort Berthold Indians	310, 415
Fort Hall Indians	319–320
Fort Peck Indians	330
Fort Sill Apaches	505
Fox Tribe	58, 507–508, 513
Fractional land ownership	7, 310, 313, 315, 318, 321
Fractionated heirship	524–525
Freedmen	523
Funds	39, 476, 483, 503, 521, 527, 530, 541
Funds allocated to San Francisco area	540
Future Indian policy	4, 8
Gas	7, 339, 341
Leases	341
Gathering rights	182, 186
General Accounting Office	41, 306, 326, 338, 484
Investigations	41
Report	306, 338, 354, 372
Survey team	372
Timber	326
Water	336
General Allotment Act of 1887	65, 70, 308–309, 318, 430
General Civil Rights Act of 1968	210
General Crimes Act	115, 146, 194–195, 197–198
General Custer	62
General Revenue Sharing Act	257
Ghost Dance religion	67
Governments	213
Grant, President Ulysses S	56, 403
Peace policy	56
Gravel	347
Guardianship	127
Guardian-Ward relationship	104, 189
Hagan, William T	67
Harris, Cornell Kathryn	519
Health	9, 31, 36, 68–70, 81, 91, 246, 281–282, 371–386, 393–401, 442, 542
Alcoholism	373–374, 400–401
Budget	282
Care	91
Contract care	379
Diseases	371–373
Facilities	378, 399
GAO report	372
Hospitals	379
Indian Health Care Improvement Act	396–399
Indian Health Service	375–376, 378, 380–386, 394, 396, 399–400
Indian involvement	383–384
Life expectancy	372
Mental	372, 374–375, 400
Nutrition	395–396, 400
Paraprofessional Corp	400
Programs	380
Sanitation	393–394
Services	81
Staffing	399
Statistics	91, 372
Training programs	381–382, 400
Transportation	394, 400
Tribal health departments	384
Heirship	313
Helvering v. *Motion Producers Corp*	173
Higher Education Act of 1963	415
History	236

Page

Hohokam Tribe 334
Hoover Commission Report on Indian Affairs 76–77, 450
  Task force 405
Hopi Tribe 171
Houma Community of Louisiana 90
Housing 7, 32, 36, 81, 248, 251, 386–394, 400, 442
  Alaskan Natives 389
  Characteristics 387
  Combination approach 393
  Current production 388
  Delays 392
  Delivery 392
  HUD 388–394
  Indian Housing Authority 390, 392
  Inventory 387
  Joint Funding Simplification Act 392
  Needs 389
  Office of Indian Housing 393
  Public 388
  Regional and cultural violations 389
  Statistics 387
  Tribal control 392
  Universal problems 390
Housing and Community Development Act of 1974 251
Housing and Urban Development 388–394
Howard, Representative Edgar, House Committee on Indian Affairs 277
Human resources 347–348
Hunting 182–184, 186, 199, 203
Income, per capita 306
Income tax 155
Independent Indian agency 6, 23, 32–35, 284–290, 297, 400, 416, 442
  Housing 400
Indian acquisition loans 253
Indian action teams 351–352
Indian administration 231, 233, 235
Indian affairs, transfer 56, 95
Indian agency 32, 400
  Housing 400
Indian agents 403
Indian Board of Representatives or Commissioners 557–558
Indian Bureau 403
Indian Career Service 21, 296
Indian Civil Rights Act of 1968 ..... 18–19, 73, 117, 143, 154, 168, 210, 212, 214–215
  Immunity 210
  Judicial review 210
Indian Claims Commission 105, 536
Indian Commissioners, separate views 621–624
Indian congressional delegation 557–558
Indian contractors 22, 264–265
Indian country 113–117, 194–195, 197–198, 305–365, 507–508, 515, 520–521
  Definition 113–114
  Jurisdiction 115, 117
Indian development bank 30
Indian education 23
Indian Education Act 405, 409, 412
Indian Education Resources Center 405
Indian Finance Act of 1974 ..... 319, 359–360, 364
Indian Financing Act 258, 262, 312–313
Indian Health Care Improvement Act of 1976 ..... 130, 283, 396–399
Indian Health Service 22, 31–32, 44, 91, 252, 278, 281–284, 297, 375–376, 378, 380–386, 388, 394, 399–400, 534, 541–542
  Appropriations 382
  Budget 282, 382
  Indian involvement 383–384

Page

Organizational structure 282
Patient 385
Public Law 94-437 397-399
Service delivery system 282
Staffing 380
Training programs 381-382
Tribal health departments 384
Indian Housing Authority 390, 392
Indian identity 82
Indian involvement 383-384
Indian landholdings 65
Indian laws and treaties 94, 120
Indian Leasing Act of 1938 174
Indian police 161-163
Indian policy 68, 82
Future 82
Indian population 78, 89
Indian poverty 91
Indian preference 21, 263, 271, 276, 278, 296, 341
Contracting 263
Indian readiness 81
Indian Removal Act of 1830 ..... 53, 506
Indian Reorganization Act of 1934 ..... 3, 15, 21, 34, 71-72, 81, 101, 108, 119, 130, 149-150, 156, 158, 161, 163, 187-189, 191-192, 235, 243-244, 276-277, 280, 296, 308, 310, 313, 318-319, 404, 415, 418, 449, 456, 466, 490, 517, 528, 559
Amendment 191-192
Wheeler-Howard Act of 1934 404
Indian rights 4, 57, 65, 196, 517, 556
Indian Self-Determination and Education Assistance Act 21-22, 31, 40, 81, 130, 219, 223-225, 257, 259, 262-263, 280, 284, 297, 350, 384, 399, 405, 452, 483, 494-495, 527, 559
Indian service 61, 72, 245, 276-278, 404
Indian skills bank 22
Indian state 147
Indian statistics 94
Indian studies programs 80
Indian survival 76-77
Indian systems of government 161
Indian Technical Assistance Center 352
Indian territory 148, 505-516, 519, 524, 526, 528
Indian Trade and Intercourse Act 100, 295, 542
Indian Tribes, Bands and Groups:
Absentee-Shawnee 508, 522-523, 525
Agua Caliente Band 200, 205, 207
Ak Chin 386
Apache 509-510
Arapaho 58, 507, 509-510, 525, 527
Blackfeet 330, 345-346
Caddo 505, 507
Cayuga 544
Catawba 295, 544
Chemehuevi 384
Cherokee 53-54, 61, 63-64, 68, 100, 103-104, 111, 120, 127, 157, 213, 465-466, 507, 513, 526
Cheyenne 317, 507, 509-510, 525, 527
Chickasaw 53, 57, 466, 506, 526
Chippewa 58, 415
Choctaw 53, 55, 57, 157, 465-466, 506, 526
Coeur d'Alene 188
Colville 167, 188, 205, 331
Comanche 56, 509-510, 525
Cowlitz 476
Crow 295, 311, 316, 318, 321, 330, 332, 344
Creek 53, 57, 63, 286, 465-466, 506-507, 511-512, 528

	Page
Dakota	56
Delaware	505, 507
Five Civilized	26, 68, 148–150, 157, 242, 314, 402, 505–507, 514–516, 519–520, 522–523, 528–529
Fort Berthold Indians	310, 415
Fort Hall Indians	319–320
Fort Peck Indians	330
Fort Sill Apaches	505
Fox	58, 507–508, 513
Hohokam	334
Hopi	171
Houma Community of Louisiana	90
Iowa	507
Iroquois	161
Jicarilla Apache	69, 340
Kansas or Kaw	508
Kickapoo	507, 509
Kiowa	505, 509–510
Kiowapache	509
Kalmath	450
Lummi	415
Mandans	69
Mashpee	544
Menominee	107, 448, 450, 452, 455
Miami	57
Mississippi	507
Missouria	507, 509, 521, 525
Mohave	334
Mohawk	544
Mohegan	90
Montauk	90
Narragansett	90, 544
Navajo	73, 79, 110, 118, 167, 339, 343–344, 372, 397, 415, 429, 431
Northern Cheyenne	118, 330
Northwest Affiliated	209
Oglala Sioux	166, 170
Ohio River	53
Oneida	544
Osage	26, 176, 314, 340, 508, 520, 524
Otoe	507, 509, 521, 525
Ottawa	58
Ouray	340
Paiute	312, 335
Papago	217, 317
Passamaquoddy	295, 478, 542–545
Pawnee	505, 507, 509
Penobscot	295, 542–545
Peoria	54
Peyote	151, 154
Pine Ridge Sioux	415
Plains	63, 67
Plains Apache	504
Ponca	507, 509, 518, 521
Pottawatomie	189, 508, 525
Pueblo	354, 464
Quapaw	505, 507
Quechan	317, 334
Querecho	504
Quinault	324–325
Rancheria	464
Rogue River	59
Rosebud Sioux	415
Sac	58, 507–508, 513
Salt River	258
Schaghticokes	544
Seminole	506, 511–512
Seneca	134

Page

Shawnee 57
Shoshone-Bannock 321, 335
Sioux 114, 311–312, 415
Sisseton-Wahpeton 415
Swinomish 171
Teton-Dakota 67
Tlingit and Haida 41, 490, 494–496, 502
Tonkawa 509
Tunica 478
Uintah 340
Umatilla 316, 321
Umpqua 59
United Sioux 496
Ute 317
Wampanoag 544
Warm Springs 167
Wea 57, 58
Western Pequots 544
Wichita 504–505, 507
Wind River 330, 332
Yacqui Indians of Arizona 90
Yakima 167, 335
Yankston Sioux 58
Yuma 334
Zuni Indian Pueblo 171
Indian trust property 12
Indians:
Life expectancy 231
Population 231
Institute of American Indian Culture 45
Intercourse Act of 1892 54
Intergovernmental Cooperation Act of 1968 ..... 221, 259
Intergovernmental Personnel Act of 1970 219
Investment capital 358–365
BIA 362
Business grant program 364
Department of Agriculture 361–362
Economic Development Administration 361, 365
Enterprise development 364
Federal loans 359
Indian business development programs 361
Indian Finance Act 360, 364
Industrialize 364
Natural resources 365
Reservations 364
Revolving loan funds 359–360
Small Business Administration 361
Trust funds 362–363
Investment of trust funds 31
Iowa Tribes 507
Iron Crow v. *Oglala Sioux Tribe* 155, 158–159, 178
Iroquois Tribe 161
Irrigation 337
Jackson, Helen Hunt 62
Jackson, Senator Henry M 377, 379
Jackson, President Andrew 53–55
Jefferson, President Thomas 52
Program of 53, 56
Jerome Commission 520
Jicarilla Apache Tribe 69, 340
Johnson-O'Malley Act of 1934 ..... 32–33, 36, 130, 217, 245, 401, 404–407, 409, 411–412, 414, 417, 436, 442
Johnson, Dr. Emery A., Director of Indian Health Service 388
Johnson, President Lyndon B 80
Joint Funding Simplification Act 220, 257–258, 392
Jones, Commissioner W. A 403

	Page
Judicial decisions	4
Judicial systems, current	163
Junior colleges	416
Jurisdiction	5, 9, 112–119, 194–196, 199–209, 293, 314, 516–518, 529–530
Civil	112–114
Concurrent	196
Conflicts	5
Criminal	112–114, 194, 196, 204
Definition	112
Federal	114–115, 194–196, 199, 529–530
Indian country	113–116
Local	203
Retrocession	196
State	5, 57, 114, 116–119, 199–200, 203–207, 217, 518, 530
Taxation	116
Tribal	5, 114–115, 117, 194, 196, 206–209, 529–530
Trust property	116
Kansas or Kaw Tribe	508
Kappler, Charles J	94
Kickapoo Tribe	507, 509
Kiowa Tribe	505, 509–510
Kiowapaches Tribe	509
Klamath Tribe	450
Koniag, Inc. v. *Kleppe*	498
Knox, Henry, Secretary of War	52, 145
Lafiore, Greenwood	55
Lands	14, 16, 24–25, 27–28, 39, 41–42, 52, 56, 60, 65–67, 70, 104–105, 114, 126, 147, 203, 305, 307–308, 323, 328–329, 334, 492, 499, 501–503, 506, 516, 525, 528, 536, 542
Acquisition	221, 310, 312–313, 319, 323
Agriculture	52, 314–316
Allotments	52, 56, 311, 313, 315, 318, 320–321, 323, 328–329
Base	308, 312
Cessions	308
Checkerboard	114, 311
Claims	52
Common ownership	65
Condemnation	313
Consolidation	311–313, 319
Control of	52
Criminal and civil jurisdiction	114
Crop	314
Excess property	313
Fee	313
Fee patent	310
First right of purchase	313
Forest	28, 314
Fractionated ownership	25, 27, 310, 313, 315, 318, 321, 328
Grazing	305, 321, 323
Heirship	25, 27, 313
Hunting	52
Leasing	319–321, 323
Loans	311–313, 323
Loss	308–309
Partition	25
Preservation	312
Purchase	25
Range	314, 317–318
Sale	24–25, 52
Surplus	308
Taking	310
Title	126, 147
Trust	25, 104–105, 181, 311, 313
Use	203

	Page
Land acquisition	524
Land cessions	505–512
Land claims	542–545
Aboriginal claims	545
Aboriginal ownership	542
Claim abolishment	545
Department of Justice	543
Department of the Interior	542–543
Effects on Maine's economy	543
Indian Trade and Intercourse Acts	542
Legislative proposals	544–545
Litigation	542–544
Mashpee Tribes	544
Non-Intercourse Acts	542
Non-Intercourse Act of 1790	542–543
Passamaquoddy and Penobscot claims	542–545
State of Maine	542–543
Trust obligation	542, 545
U.S. v. *Maine*	543
Land Registration Act	536
Landless rural Indians	537, 541
Law enforcement	204, 517–519
Law Enforcement Assistant Act	20, 45
Law Enforcement Assistance Administration	166, 208, 217, 221, 530
Leasing	318
Legal assistance	38
Legal cases:	
Akin decision	333
Alaska Native Ass'n of Oregon v. *Morton*	498
Arizona v. *California*	331
Bel Bay case	28, 338
Big Horn case	28, 338
Bryan v. *Itasca County*	116, 119, 177–178
Buster v. *Wright*	157
Calista, et al. v. *Kleppe*	498
Central Coun. of Tlingit H. Ind. v. *Chugach Native Ass'n*	498
Cherokee Nation v. *Georgia*	54, 77, 103–104
Choctaw Nation v. *Oklahoma*	506
Colliflower v. *Garland*	159–160
Colville v. *Walton, et al*	28, 331, 338
Conrad Investment Co. v. *U.S*	330, 332
DeCoteau v. *District County Court*	178
Ellis v. *Page*	517
Ex Parte Crow Dog decision	64, 114, 154, 196
Fisher v. *District Court*	118
Helverina v. *Motion Producers Corp*	173
Iron Crow v. *Oglala Sioux Tribe*	155, 158–159, 178
Koniag, Inc. v. *Kleppe*	498
Loncassion v. *Leekity*	18, 214
Lone Wolf v. *Hitchcock*	174
McClanahan v. *Arizona Tax Commission*	101, 118, 155
McClanahan and U.S. v. *Mason*	174, 176
Maxey v. *Wright*	157
Moe v. *Confederated Salish and Kootenai Tribes*	118–119, 178–179
Morris v. *Hitchcock*	157
Morton v. *Ruiz*	421, 435–436
Native American Church v. *Navajo Tribal Council*	155
Oklahoma Tax Commission v. *Texas*	174
Oklahoma Tax Commission v. *U.S*	173
Organized Village of Kake v. *Egan*	101
Passamaquoddy v. *Morton*	478
Pence v. *Kleppe*	498
Pyramid Lake Paiute Tribe v. *Morton*	105
Rosebud Sioux Tribe v. *Kneip*	178
Sealaska Corp. v. *Secretary*	498

Page

Schantz v. *White Lightning* 114
State ex rel. Williams v. *Kemp* 420
Talton v. *Mayes* 155
Toosigah v. *U.S* 520
U.S. v. *Ahtanum Irrigation District* 131–132
U.S. v. *Kagama* 185
U.S. v. *Kills Plenty* 159
U.S. v. *Maine* 543
U.S. v. *Mazurie* 102, 117, 155
U.S. v. *Quiver* 155
U.S. v. *Ramsey* 520
U.S. v. *Rickert* 173
U.S. v. *Walker River Irrigation District* 331
U.S. v. *Washington* 185
U.S. v. *Whaley* 195–196
U.S. v. *Wheeler* 159–160
Warren Trading Post v. *Arizona Tax Commission* 118
West case 176
Williams v. *Lee* 101, 118–119, 155, 173
Williams v. *U.S* 115
Winters v. *U.S* 329–330
Doctrine 71, 110, 332–333, 337
Worcester v. *Georgia* 77, 100–103, 154, 215–216
Legal fees 205
Legal remedies 54
Legal services 12–13
Legal status of Indian tribes 103
Relationship to the Federal Government 103
Legality 135–138
Assistance 136
Duty 135
Obligation 136
Policy 136
Proceedings 135
Representation 135, 137–138
Services 137–138
Legislative authority of Congress 100
Legislative proposals 544–545
Leupp, Francis E 69, 403
Library of Congress 45, 88, 560, 562
Native American Studies Division 45
Research 560–562
Liquor, sale and dispensation of 155
Liquor licenses 102
Litigation 542–544
Little Bighorn 62
Loan programs 25
Loans 322, 324
Loncassion v. *Leckity* 18, 214
Lone Wolf v. *Hitchcock* 174
Loss 310
Lummi Tribe 415
McClanahan v. *Arizona Tax Commission* 101, 118, 155
McClanahan and U.S. v. *Mason* 174, 176
McKenney, Thomas, Commissioner of Indian Affairs 65, 238
Major Crime Act 65, 115, 194–196, 511
Maxey v. *Wright* 157
Management information system 290
Mandans Tribe 69
Manpower 350–355
BIA 350
Communications 354
Comprehensive Employment and Training Act of 1973 352–353
Department of Labor 352
GAO reports 354

Page.

Indian action teams 351–352
On-the-job training 351
Programs 351, 354
Statistics 354
Training 350, 352–354
Vocational training 351
Manypenny, Commissioner George W 57
Marshall, Chief Justice John 54, 57, 100, 102–103, 146
Mashpee Tribe 544
Massacre of Indians 62
Wounded Knee, S. Dak 67–68
Medical care 31
Meeds, Congressman Lloyd, vice chairman, dissenting views 571–612
Menominee Restoration Act of 1973 107
Menominee Termination Act 151
Menominee Tribe 107, 448, 450, 452, 455
Meriam, Lewis 71
Meriam report 3, 71–72, 74, 76–77, 200, 243, 245, 266, 396, 404, 415, 431
Problem of Indian Administration 71, 76, 404
Scholarships 415
Miami Tribe 57
Minerals 181, 305, 307, 338–347
Agreements 347
Development 346
GAO report 338
Inventories 346
Joint ventures 347
Leasing 338–339, 344, 347
Loans 347
Royalties 347
Mission Relief Act 536
Mississippi Tribe 507
Missouri Tribe 507, 509, 521, 525
Moe v. *Confederated Salish and Kootenai Tribes* 118, 119, 178–179
Mohave Tribe 334
Mohawk Tribe 544
Mohegan Community of Connecticut 90
Mohegan Tribe 90
Montauk Community of Long Island 90
Montauk Tribe 90
Morris v. *Hitchcock* 157
Morris, Mrs. Elizabeth, treasurer of the Quinault Property Owners Association 207
Morton v. *Ruiz* 435–436
Mutch, Fred, the mayor of Toppenish, Wash 207
Narragansett Community in Rhode Island 90
Narragansett Tribe 90, 544
National Congress of American Indians 557
National Indian Technical Assistance Center 22
National Institute on Alcoholism and Alcohol Abuse 32
National Tribal Chairman's Association 557
Nations 51, 52
Domestic dependent 54
Independent foreign 54
Native American Church v. *Navajo Tribal Council* 155
Native American Programs Act of 1977 130
Native corporations 499–503
Natural resources 7, 27–28, 305, 307–308, 324–329, 365
BIA 343, 347
Clay 347
Coal 7, 339–341, 347
Fish 7, 14, 15, 335
Gas 3, 339, 341
Gravel 347
Joint ventures 345–346

Page
Minerals 14, 28–29, 305, 307, 338–347
Oil 7, 339, 341, 347
Timber 7, 27, 28, 305, 307, 324–329
Uranium 7, 339, 343, 347
Water 7, 28, 305, 307, 329–338, 347
Wildlife 14
Navaho Tribe 73, 79, 110, 118, 167, 339, 343–344, 372, 397, 415, 429, 431
New goals 78
New programs 78
Nixon, President Richard M 80, 452
Nonfederally recognized Indians 37, 40, 107
Nonfederally recognized tribes 120
Non-Intercourse Act of 1790 542
Nonrecognized tribes 8, 461–484, 534
BIA 462, 476
Bureaucratic decisions 462
Chart of available information 468–476
Cohen, Felix 477
Congressional recognition 476
Department of Interior 462, 476–478
Federal-Indian relationship 461–462, 480–484
Special office 480–484
Federal relationship 463
Funds 463, 483
Pertinent facts 467
Political considerations 476
Recognition policy 475–476
Recognized 466
Social consequences 463
Terminated tribes 462
Termination 463, 466
Treaties 462, 464, 466
Trust land 476
Trust responsibility 461–462, 476
Tunica Tribe 478
Nontreaty rights 12
Northern Cheyenne Tribe 118, 330
Northwest Affiliated Tribes 209
Nutrition 253
Off-Reservation Indians 9, 35, 429–442
Appropriations 431, 435
Assimilation 430, 432
Assistance programs 441
BIA 436
Boarding schools 429, 431
Commissioner of Indian Affairs 431
Consumer education 442
Education 437, 442
Employment 437
Employment assistance 437
Federal-Indian relationship 436
Federal policies 429, 432
Federal responsibility 432
Funding 442
General Allotment Act of 1887 430
General assistance 436
Health care 437, 442
History 429
Housing 438, 442
Independent Indian Agency 442
Indian Service Centers 433
Job opportunities 437
Johnson-O'Malley Act 436, 442
Meriam report 431

Page

Migration 438
Morton v. *Ruiz* 435–436
Moving costs 442
Navajos 431
Relocation 432, 436
Senate Subcommittee on Indian Affairs 431
Snyder Act of 1921 ..... 431, 435–436, 438
Social Services 436
Status 434
Technical assistance 442
Trust relationship 433
Trust responsibility 433–434
Urban centers 429, 432, 438–442
Urban environment 436
Urban Indians 429–442
Urban solution 436
Vocational training 436–437
Welfare programs 429, 437–438
Office of Economic Community 79
Office of Economic Opportunity (OEO) 246
Funds 246
Office of Education 252, 401, 405–406, 408–411
Office of Indian Education 41, 409
Office of Indian Manpower Programs 41
Office of Indian Program Development and Budget 24
Office of Native American Programs 41, 253, 527
Office of Policy Analysis for Indian Affairs 24
Office of the Solicitor 419
Oglala Sioux Tribe 166, 170
Ohio River Tribe 53
Oil 7, 339, 341, 347
Oklahoma 42–43, 503–533
Aboriginal Tribe 504–505
Absentee-Shawnee 508, 522–523, 525
Agreements 508–509
Allotments 520–521, 524–525
American Indian movement 518
Apaches 509–510
Arapahoes 507, 509–510, 525, 527
Assimilation 528
BIA 521–525, 530
Caddoes 505
Census Bureau 522
Checkerboarding 524
Cherokees 507
Cheyenne 506, 511–512
Chickasaw 506, 526
Choctaw 506, 526
Choctaw Nation v. *Oklahoma* 505
Citizens Band of Pottawatomies 525
Cohen, Felix 525
Comanche 508
Commissioner of Indian Affairs 505
Conflict of interest 527
Congress 528–530
Courts 516
Creeks 506–507, 511–512, 528
Dawes Commission 523
Delaware Tribe 505, 507
Department of Interior 523, 525
Ellis v. *Page* 520
Executive orders 509
Federal Indian Policy 530
Five Civilized Tribes 505–507, 514–516, 519–520, 522–523, 528–529

	Page
Fort Sill Apaches	505
Fractionated heirship	524–525
Freedmen	523
Funds	521, 527, 530
Harris, Cornell, Kathryn	519
Historical overview	503
HUD	518
Indian country	502–508, 515, 520–521
Indian Reorganization Act	517, 528
Indian rights	517
Indian Self-Determination and Education Assistance Act	527
Indian territory	505–516, 519, 524, 526, 528
Iowas	507
Jerome Commission	520
Jurisdiction	43, 516, 529–530
Kansas or Kors	508
Kickapoos	507, 509
Kiowapaches	509
Kiowas	505, 509–510
Land acquisition	524
Land cessions	505–512, 520
Land claims	505
Lands	506, 516, 525, 528
Law enforcement	517–519
LEAA	530
Major Crimes Act	511
Missourias	507, 509, 521, 525
Mississippis	507
Office of Native American Programs	527
Oklahoma Indian Welfare Act	517
Oklahoma territory	520–521, 524
Organic Act	512–516
Osage	508, 520, 524
Otoes	507, 509, 521, 525
Pawnees	505, 507, 509
Plains Apaches	504
Police powers	529
Poncas	507, 509, 518, 521
Potawatomie	508
Public Law 93–638	527
Public Law 83–280	517
Quapaws	505, 507
Querechos	504
Removal	505–507
Reservation status	519–520
Sac and Fox	507–508, 523
Secretary	531
Seminoles	506, 511–512
Sovereignty	506, 513, 515, 517
State courts	526
Statehood Act of 1906	516
Statistical chart on Western Oklahoma Tribes	523–533
Supreme Court	505, 526
Taxation	521
Territorial rights	513
Tonkawas	509
Tooisgah v. *U.S*	520
Treaties	505–510, 523, 526
Treaty lands	524
Treaty of Dancing Rabbit Creek	506
Treatymaking	508
Tribal constitutions	528
Tribal government	526–527, 530
Tribal membership	522–523

	Page
Tribal plan	531
Tribal police	517
Tribal powers	513, 525, 530
Tribal rights	516
Trust allotments	524
Trust lands	524
United States Tribes of Western Oklahoma and Kansas	529
U.S. v. *Ramsey*	520
Water rights	504, 525–526
Wichitas	504–505
Oklahoma Indian Welfare Act of 1936	149–150, 517
Oklahoma Tax Commission v. *Texas*	174
Oklahoma Tax Commission v. *U.S*	173
Oklahoma Territory	520–521, 524
Omaha Treaty of 1854	57
Omnibus Mineral Leasing Act of 1938	342
Oneida Tribe	544
Organic Act	512–513
Organized Village of Kake v. *Egan*	101
Osage Guardianship Act of 1925	70
Osage Tribe	26, 176, 314, 340, 508, 520, 524
Otoe Tribe	507, 509, 521, 525
Ottawa Tribe	58
Ouray Tribe	340
Paiute Tribe	312, 335
Northern	335
Walker River	312
Papago Tribe	217, 317
Parent-child relationship	64
Intervention	64
Passamaquoddy and Penobscot claims	542–545
Passamaquoddy Tribe	295, 478, 542–545
Passamaquoddy v. *Morton*	478
Pawnee Tribe	505, 507, 509
Pence v. *Kleppe*	498
Penobscot Tribe	295, 542–545
Personnel system	290
Peoria Tribe	54
Petition for restoration	37
Petitions for recognition	38
Peyote Tribe	151, 155
Phosphate	7
Pine Ridge Sioux Tribe	415
Plains Apaches	504
Plains tribes	63, 67
Police	196–198, 200, 204
Bureau of Indian Affairs	196–198
Federal	200
Powers	529
Tribal	196–198
Political organizations	15
Ponca Tribe	507, 509, 518, 521
Population	536–537
Porter, Pleasant, principal chief, Creek Nation	504
Postsecondary schools	32, 34, 299
Pottawatomie Indians	189, 508, 525
Citizens Band	525
Prairie Band	189
Power systems	355–357
Poverty	93, 305, 309
Pratt, Richard H	63
Preston-Engle report	71
Professional assistance	38, 51
Programs	249
Commerce Department	249

Page

Protection:
United States — 54
Public Laws:
81–475 — 32
81–815 — 32, 401, 409, 417
81–818 — 32
81–874 — 32, 401, 405, 409, 412–413, 417
83–280 — 116–117, 119, 151–152, 177–178, 183, 196, 199, 200, 203, 205–208, 448, 456, 517, 534, 538, 541
92–318 — 415, 417
93–218 — 405
93–280 — 409
93–580 — 234, 266, 557
93–638 — 32, 263, 265, 280, 284, 350, 399, 405, 527
94–437 — 283, 376, 396–399
Public Participation in Government Proceedings Act of 1976 — 21
Public Works and Economic Development Act of 1965 — 249
Economic Development Administration — 249
Pueblo Lands Board Act of 1924 — 70
Pueblo Tribe — 334, 464
Pyramid Lake Paiute Tribe v. *Morton* — 105
Quapaw Tribe — 505, 507
Quechan Tribe — 317, 334
Querecho Tribe — 504
Quinault Tribe — 324–325
Rancheria Tribe — 464
Real estate clearinghouse — 36
Recognition — 8, 38–40, 60, 466, 541
Mississippi Choctaw — 55
Recognition of tribal governments — 557, 559
Recognition policy — 476–480
Reform philosophy — 63
Rehnquist, Justice William — 102
Religion — 210
Relocation — 8, 466, 534
Removal — 54–55, 147, 240, 505–507
Reservations — 147
Superintendents — 240
Westward — 147
Removal of tribes — 54–55, 57
Removal treaties — 465, 505–506
Renie, Albert — 165
Represented — 210
Research — 560, 562
Reservation status — 519–520
Reservations — 7, 9, 30, 56, 112, 148, 149, 152–153, 162, 181, 408
Criminal or civil jurisdiction — 152
System — 148
Taxation — 181
Restoration — 541
Restoration and recognition — 8
Non-recognized tribes — 8
Termination — 8
Restoration plan — 37
Retrocession — 18
Public Law 83–280 — 116–117, 119, 151–152, 177–178, 183, 196, 199, 203, 205–208
Reversing tide — 73
Revolving Loan Fund — 24, 312–313, 360
Loans — 24
Roads — 355, 358
Rogue River Tribe — 59
Rosebud Sioux Tribe — 415
Rosebud Sioux Tribe v. *Kneip* — 178

Page

Rural landless Indians 541
Sac Tribe 58, 507–508, 513
Salt River Tribes 258
Sand and gravel 500
Sargent, Representatvie Aaron A 59
Schaghticokes Tribe 544
Scholarship and Fellowship Program 41
Sealaska Corp. v. *Secretary* 498
Schantz v. *White Lightning* 114
Secretarial disapproval 193
  Override 193
Secretarial restrictions 209
Secretary of Interior 11, 16–18, 23–25, 149, 208–209, 502
  Automatic data processing 23
  Communications 23
  Management information systems 23
  Manual of operations 23
  Organizational structure 23
  Personnel system 23
  Planning and budget 23
  Reorganization 23
Self-determination 3, 21, 36, 79–80, 199, 217, 220, 225, 281, 307, 401, 405, 452–453, 483
Self-Determination Grants Program 224
Self-government 14, 17–18, 54, 73, 100–101, 103, 105, 118, 120, 134, 143, 199, 210, 216, 231–232, 405, 560
Self-sufficiency 350
Seminole Tribe 506, 511–512
Senate Subcommittee on Indian Affairs 431
Seneca Tribe 134
Separate views:
  Abourezk, Senator James, Chairman 615–617
  Indian Commissioners 621–624
  Meeds, Congressman Lloyd, vice chairman 571–612
Service populations 224
Settlement Act 41–42, 498
Shawnee Tribe 57
Shoshone-Bannock Tribes 321, 335
Sioux Tribe 114, 311–312, 415
  Standing Rock 311–312
Sisseton-Wahpeton Tribe 415
Skills bank 297
Small Business Administration 250, 361
Snyder Act of 1921 ..... 34, 130, 266, 377, 421–423, 431, 435–436, 438
Social service findings 74
Solicitor's office 149, 288
  Opinion 149
Social Security 419–421
Sovereign authority 182
Sovereign entities 151
Sovereign immunity 212–214
Sovereign powers 225
Sovereignty 4, 18, 20, 51, 54, 58, 65, 99–103, 110, 118–120, 126, 144–147, 149–150, 154, 156, 158, 160, 195, 199, 204, 216, 218, 257, 384, 454, 506, 513, 515, 517
  Definition 99
  Doctrine 100–102
  Indian tribes as governments 99
  Retrocession 204
  Status 100
  Suppress 60
  Tribal powers 102–103, 110, 119–120

Page
State ex rel. Williams v. *Kemp* 420
State jurisdiction 57, 218
State statutes 103
Statehood Act of 1906 516
States 152, 217
Authority 152
Fish and game laws 152
Maine 542–543
Powers 217
Taxes 152
Statistical chart on western Oklahoma tribes 532–533
Statiscal profile 93
Statistics on Indians 87
Stewart, William, Senator of Nevada 59
Superintendent of Indian Trade 238
Supreme Court 54, 57–58, 71, 100–104, 106–108, 110, 114–115, 117–120, 146, 173, 194, 204, 213, 215, 225, 420–421, 526
Allotment treaties 57–58
Decisions 101, 146, 204, 213
Defender of sovereignty 54
Opinion 100
Public Law 280 204
Removal of tribes 57
Sovereignty 101
State jurisdiction 57
States 204
Taxation 58, 204
Termination 58
Swinomish Indian Tribe 171
Taft, Peter, Assistant Attorney General of the United States 333
Talton v. *Mayes* 155
Task force studies 9
Taxation 14, 58, 102, 107, 118, 168–182, 199, 203, 225, 309, 343–344, 347, 499, 502–503, 521–522, 560
Code 170
Federal 170–172, 181, 344
Immunity 107, 168
Land 58, 172, 175–176
Local 203
Powers 168, 170
Reservations 107
State 14, 102, 118, 169, 173–179, 181, 203, 309, 343–344, 347, 521, 560
Status 170
Tribal 178–180, 344
Trust property 199
Technical assistance 22, 26, 36, 38, 40, 236, 260–264, 289, 296–297, 322, 323, 347
Tenorio, Frank 206
Terminated Indians 36
Terminated tribes 107, 120
Termination 4, 8, 36–37, 40, 58, 77, 101, 106–107, 116, 120 148–151, 174, 199, 205, 207, 308, 405, 420, 447–456, 463, 466, 534, 538
Acts 451
Assimilation ..... 448–450, 452–4[illegible]
BIA 448
Commissioner of Indian Affairs 450
Effective dates 451
Era 101, 116, 120
Federal-Indian relations 447, 452
Federal policy 448–449
Federal responsibility 448
Hoover Commission Report on Indian Affairs 450

Page.

House Concurrent Resolution 108 ---- 451
Indian Reorganization Act of 1934 ---- 449, 456
Klamath Tribe ---- 450, 452
Menominee Tribe ---- 448, 450, 452, 455
Nixon, President Richard M ---- 452
Rancherias ---- 448
Repudiation ---- 452–453
Restoration ---- 453–455
Self-determination ---- 452–453
Sovereignty ---- 454
Tribes affected ---- 451
Termination Acts ---- 119
Terminationist philosophy ---- 151
Territorial rights ---- 513
Teton-Dakota Tribe ---- 67
Thompson, Morris ---- 244
Thorpe, Jim ---- 69
Timber ---- 253, 305, 307, 324–329, 500
BIA ---- 325–329
Development ---- 324
Fractionated heirship ---- 327
GAO report ---- 326
Management ---- 327, 329
Sale ---- 328
Trust responsibility ---- 325
Title 25 CFR Courts of Indian Offenses ---- 163–164
Title 25, United States Code ---- 16, 192, 193, 295, 313, 328
Amended ---- 192, 193, 328
Title 28, United States Code ---- 214
Amendment ---- 214
Tlingit and Haida Tribes ---- 41, 490, 494–496, 502
Tonasket, Mel ---- 205
Tonkawa Tribe ---- 509
Toosigah v. *U.S.* ---- 520
Trade and Intercourse Act of 1802 ---- 156, 402, 544
Trade and Intercourse Act of 1834 ---- 156, 544
Trading post ---- 32
Training ---- 72–73, 277, 349–350, 353–354
Trans-Alaska pipeline ---- 501, 508
Transportation ---- 7, 355, 394, 400
Transportation systems ---- 356–358
Roads ---- 356–358
Trapping ---- 182–183 186, 199, 203
Treaties ---- 4–5, 9, 12, 51, 54, 56–60, 94, 104, 106, 109–112, 127, 145–148, 156, 402, 462, 464, 466, 505–510, 523, 526, 535–536
Abolishing ---- 59–60
Abrogation ---- 4
Allotment ---- 58
Cheyenne and Arapahoe of 1867 ---- 58
Choctaw of Dancing Rabbit Creek ---- 57
Law ---- 111
Negotiations ---- 145
Omaha of 1854 ---- 57
Relationship ---- 4
Removal ---- 54–55, 505–507
Repudiate ---- 60
Rights ---- 9, 12, 111
Sac and Fox of 1859 ---- 58
Yankton Sioux of 1858 ---- 58
Treaty lands ---- 524
Treatymaking ---- 59, 61, 106, 109, 156, 508
Treaty of Dancing Rabbit Creek ---- 506
Treaty relations ---- 39
Treaty right ---- 401

Pages.

Tripp, Robert 249
Tribal administration 33
Tribal authority 184
Tribal constitutions 528
Tribal councils 112
Tribal courts 14, 17, 107, 112, 159, 163–164, 166, 197, 213–215
  Appellate court systems 14
  Judicial systems 213
  Systems 148
Tribal governments 5, 9, 13–14, 17, 20, 143–225, 526–527, 530
  Background 161
  Fnudamental elements 143
  Financial resources 222
  Jurisdiction 143
  Legal counsel 222–223, 225
  Litigation costs 224
  Penal power 147
  Population-based funding 223
  Recent 153
  Role 145
  Status 221
  Strengthen 222
Tribal income 344
Tribal jurisdiction 14, 18, 154
Tribal justice systems 160, 164–167
  Appellate court systems 167
  Funding 167
  Overview 160
Tribal lands allotment 66
Tribal plan 43, 531
  Rejection 43
Tribal police 164, 166, 517
Tribal powers 149–158, 186, 196, 216, 513, 528, 530
  Civil jurisdiction 153
  Criminal jurisdiction 153
  Divorce 158
  Hunting and fishing 152, 158
  Land use regulations 153
  Lands 156
  License fees 157
  Penal 210, 213–214
  Police 158
  Removal 158
  Taxes 153, 157
Tribal punishment 213
Tribal reorganization 71
Tribal resolution 17
Tribal rights 15–16, 516
Tribal sovereignty 99
  Authority to govern 99
  Tribes are governments 100
Tribal taxation 113
Tribes (*See* Indian tribes.)
Trosper, Thurman 165
Trust allotments 524
Trust assets 15–17
Trust duty 105, 182–184, 186
Trust funds 363
Trust lands 25, 104–105, 134, 327, 396, 476, 524
  Food stamps 396
  Title to lands 104
Trust obligation 106, 129, 132, 172, 542, 545
Trust protection 23
Trust relationship 9, 103–107, 110–111, 128, 130–132, 150, 200, 232, 234, 401, 433, 478
  Defined 104
  Termination of 159

Page.

Trust resources 106, 134, 136
Trust responsibilities 5, 6, 11–13, 15–17, 105–106, 120, 125–138, 187, 189, 284, 294, 305, 318, 325, 337, 362–363, 376, 433–434, 461–462
  Administering agencies 12
  Broad concepts 6
  Defined 5
  Future policy 6
  Originates 5
  Regulatory authority 5
  Statutory enactment 5
  Timber 325
  Trust duty 5
  Trust lands 12
Trust rights 12–13, 129, 134–135, 137–138
Trusts 125–138, 176–177
  Abrogation 187
  Allotments 176
  Concept 133
  Congress 137
  Creation 127
  Definition 132–133
  Funds 130
  Issues 135
  Lands 176, 313
  Policy 133
  Priniciples 128
  Services 134
  Status 177
  Title 187
Tunica Tribe 478
Uintah Tribe 340
Umatilla Tribe 316, 321
Umpqua Tribe 59
Unemployment 81, 91–93, 347–350
  Statistics 92, 348
Union of Indian Nations 557–558
Unique relationship 126
Unique status 294
United Indian Tribes of Western Oklahoma and Kansas 529
United Sioux Tribe 496
Unrecognized Indians 37, 41
Unrecognized tribes 38, 537, 541
Uranium 7, 339, 343, 347
Urban Indians 8–9, 36, 91, 429–442, 534, 537, 541
  Appropriations 431, 435
  Assimilation 430, 432
  Assistance programs 441
  Boarding schools 429, 431
  BIA 436
  Commissioner of Indian Affairs 431
  Consumer education 442
  Education 437, 442
  Employment 439
  Employment assistance 437
  Federal Indian programs 9
  Federal-Indian relationship 436
  Federal policies 429, 432
  Federal responsibility 432
  Federal services 8
  Funding 442
  General Allotment Act of 1887 430
  General assistance 436
  Health care 437, 442
  History 429

Page
Housing 438, 442
Independent Indian agency 442
Job opportunities 437
Johnson-O'Malley Act 436, 442
Meriam report 431
Migration 438
Morton v. *Ruiz* 435–436
Moving costs 442
Navajos 431
Off-reservation Indians 429–442
Relocation 8, 432, 436
Senate Subcommittee on Indian Affairs 431
Service centers 8, 432–433
Snyder Act of 1921 ..... 431, 435–436, 438
Social services 436
Status 434
Technical assistance 442
Trust relationship 433
Trust responsibility 433–434
Urban centers 429, 432, 438
Urban environment 436
Urban solution 436
Vocational training 436–437
Welfare programs 429, 437–442
Urban Indian centers 35–36
U.S. citizenship 66
U.S. Court of Indian Affairs 72–73
U.S.-Indian policy 61
U.S.-Indian relations 78
U.S. Supreme Court 64, 277
U.S. v. *Ahtanum Irrigation District* 331–332
U.S. v. *Kagama* 185
U.S. v. *Kills Plenty* 159
U.S. v. *Maine* 543
U.S. v. *Mazurie* 102, 117, 155
U.S. v. *Quiver* 155
U.S. v. *Ramsey* 520
U.S. v. *Rickert* 173
U.S. v. *Walker River Irrigation District* 331
U.S. v. *Washington* 185
U.S. v. *Whaley* 195
U.S. v. *Wheeler* 159–160
Ute Tribe 317
Wampanoag Tribe 544
Vanishing Americans 69
Wards of the United States 56, 60, 61, 127, 162
Warfare 56
Warm Springs Tribe 167
Warren Trading Post v. *Arizona Tax Commission* 118
Washington, President George 414
Water 71, 81, 105, 110, 305, 307, 310, 329–338, 347
Akin decision 333
Bureau of Reclamation 338
Code 332, 338
Develop 337
Engineering studies 338
GAO report 336
Inventory 338
Irrigation 71, 331, 334, 336–338
Leasing 336
Litigation 338
Loss 335
McCarran amendment 338
Management 336

Page.

Projects 310, 338
Recovery 338
Resources 329
Rights 71, 81, 110, 329–333, 335–338, 525–526
Rivers 335–336
Sale 332
Storage reservoirs 71
Supply 71, 334, 336
Surveys 338
Value 335
Winters doctrine 71, 110, 329–331
Water systems 355, 357
Wea Tribe 57–58
Welfare 34–36, 108, 248, 371, 419–423, 437–438
Acosta v. *San Diego County* 420
Adoption 422
Appropriations 421
BIA 421–423
Categorical assistance 419–420
Child placement 422–423
Eligibility 423
Federal funds 420
Federal-State 419–420
General assistance 421–423
Morton v. *Ruiz* 421
Snyder Act of 1921 421–423
Social Security Act 419–421
State ex rel. Williams v. *Kemp* 420
State-local 419–420
Supreme Court 420–421
Termination 420
Wenner-Gren Foundation 74
Conference 74
West case 176
Western expansion 55
Railroads effect 55, 57
Western Pequots Tribe 544
Western State Tax Administrators 177, 181
Westward Removal Act 146
Wheeler, Senator Burton K., Chairman, Senate Committee on Indian Affairs 277
White House 22
Special action office 22
Wichita Tribe 504–505, 507
Wildlife 14
Williams v. *Lee* 101, 118–119, 155, 173
Williams v. *U.S.* 115
Wind River Tribe 102, 330, 332
Winters v. *U.S.* 329–330
Doctrine 71, 110, 332–333, 337
Worcester v. *Georgia* 77, 100–103, 154, 215–216
Wovoka 67
Yacqui Indians of Arizona 90
Yakima Tribe 167, 335
Yamashita, Alan, Fort Defiance Unit Director 381
Yankston Sioux Tribe 58
Yates, Congressman Sidney R 280
Young Bear, Severt 165
Yuma Tribe 334
Zuni Indian Pueblo 171